



**International Convention on
the Elimination of all Forms
of Racial Discrimination**

Distr.: General
2 May 2018

Original: English

Committee on the Elimination of Racial Discrimination
Ninety-fifth session

Summary record (partial)* of the 2618th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 24 April 2018, at 3 p.m.

Chair: Mr. Amir

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Consideration of reports, comments and information submitted by States parties under
article 9 of the Convention

Combined eighth to tenth periodic reports of Kyrgyzstan

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- * No summary record was prepared for the rest of the meeting.
 - ** No summary records were issued for the 2616th and 2617th meetings.

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The meeting was called to order at 3.05 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

Combined eighth to tenth periodic reports of Kyrgyzstan (CERD/C/KGZ/8-10 and CERD/C/KGZ/Q/8-10)

1. *At the invitation of the Chair, the delegation of Kyrgyzstan took places at the Committee table.*
2. **Mr. Saliev** (Kyrgyzstan), introducing his country's combined eighth to tenth periodic reports (CERD/C/KGZ/8-10), said that the status of the Convention in the legal order of Kyrgyzstan had not been altered by the 2016 referendum. That notwithstanding, specific reference had yet to be made to the Convention in any court cases. The legislative framework in place to combat discrimination was based on article 16 of the Constitution, which established that no one should be subjected to discrimination on grounds of, inter alia, race, language or ethnicity. That definition of discrimination had informed articles 134 and 299 of the Criminal Code. Article 4 of the Code stipulated that one of its basic principles was the equality of citizens before the law.
3. Discrimination on grounds of race, ethnicity or religion was considered an aggravating circumstance and could result in the perpetrator of a criminal offence being prosecuted under multiple articles of the Criminal Code. Ethnicity was not indicated in national passports; and, as data were not collected on the ethnicity of defendants and victims, it was not possible to provide data on discrimination disaggregated by ethnicity. Under the State Legal Aid Act, all persons, including foreign nationals, stateless persons and refugees, were entitled to receive legal aid.
4. In 2016, a five-year programme for improving legal literacy among the population had been launched. All State agencies and local government bodies had set up helplines and the Office of the Procurator General operated an Internet portal that was accessible to the general public. Although discrimination on grounds of race or ethnicity was a criminal offence, victims could also bring civil action for compensation or the restoration of violated rights. In such cases, the burden of proof lay with the person who brought the claim.
5. In accordance with article 108 of the Constitution, the Ombudsman was entrusted with monitoring the respect of citizens' human rights and freedoms. A bill aimed at strengthening the independence of the Office of the Ombudsman had been introduced to the Zhogorku Kenesh, the parliament of Kyrgyzstan, in 2017 and was currently under review. In 2017, the Ombudsman had been contacted by nearly 13,000 people seeking assistance and had received over 7,000 communications via a dedicated helpline.
6. All ministries had oversight bodies whose membership included human rights defenders. In 2016, an expert council had been set up under the Office of the President to strengthen the involvement of civil society in the formulation and implementation of State policy. The periodic report had been discussed with civil society representatives at two consultations.
7. With regard to the case of Mr. Askarov, the Chüy provincial court had upheld, in its judgment of 24 January 2017, the Bazar-Korgon district court's finding of guilty and the sentence of life imprisonment. The judgment of the Chüy provincial court had not been appealed under the supervisory procedure; due process had been observed throughout the proceedings; and the case file had received a proper legal review.
8. As part of the judicial reform currently under way, the National Sustainable Development Strategy 2013–2017 had provided the backdrop for the introduction of seven new legal codes; those codes had been drafted with input from various United Nations bodies and civil society. In particular, the new Criminal Code contained a specific article on racial discrimination, and more severe penalties had been established for other offences if they were motivated by racial or ethnic hatred.
9. The process of training and selecting judges had undergone a thorough review and many new judges had been appointed. Audiovisual equipment was being installed in

courtrooms, and the legislation governing the activities of law enforcement officials was being updated. In order to prevent conflicts of interest, the various criminal investigation services had been placed under the centralized authority of the Government. Other steps taken to increase transparency included the creation of a cybercrime database.

10. The Government was working to combat hate speech and incitement to ethnic hatred. Between 2014 and 2017, nearly 100 television programmes aimed at bringing ethnic groups together and forging a civic identity had been broadcast. The law enforcement bodies monitored the media and the Internet, including social networks, as part of their efforts to counter ethnic, racial, religious and interregional hatred. As a result, the number of incidents of hate speech against Uzbeks in the media had halved between 2011 and 2017. Over the previous five years, training programmes had been introduced to promote tolerance and media ethics among journalists and others working in the media. In general, hate speech was addressed through a focus on self-regulation and ethical principles rather than through strict regulation.

11. The various measures taken to foster peace and harmony in Kyrgyz society had resulted in a fourfold reduction in the number of inter-ethnic incidents. In 2017, an independent monitoring exercise had assessed the implementation of the Policy Framework on Strengthening National Unity and Inter-Ethnic Relations in positive terms. A new civic integration initiative entitled "I am a Kyrgyz" was being developed with a view to instilling respect for the cultures and traditions of ethnic groups and loyalty to the State. Since 2014, the Government had funded grants for 47 projects aimed at bringing together ethnic groups and strengthening national unity.

12. The Government was continuing its efforts to investigate incidents related to the events of June 2010. Under the country's supervisory procedure, the procuratorial authorities had reviewed all the criminal cases being prosecuted by the law enforcement agencies. The low number of crimes reported in connection with the events of 2010 was due in part to the fact that witnesses had not come forward. Criminal proceedings had been initiated for all cases involving disappearances and the corresponding investigations were under way. International search warrants had been issued through the International Criminal Police Organization (INTERPOL) for various individuals. Under national legislation, victims of miscarriages of justice related to the events of June 2010 could file a civil claim against the investigative authorities or courts. Data on the payment of compensation to victims were not available.

13. Citizens' access to information had improved in recent years as a result of efforts to harness the potential of the country's regions. Kyrgyzstan had recently taken the first steps towards making local government services available online, and an initiative had been launched to strengthen inter-ethnic harmony. Under the State Programme for the Security and Socioeconomic Development of Certain Border Areas of Kyrgyzstan with Special Status, numerous measures aimed at enhancing socioeconomic infrastructure in border villages had been put in place over the period 2013–2017 and, in January 2018, implementation of the second phase of the Programme had been approved.

14. According to figures for 2018, there were over 900,000 persons of Uzbek ethnicity living in Kyrgyzstan. The Government had earmarked significant financial resources to promote Uzbek culture and language. The Uzbek Ethnic Cultural Centre, which operated under the aegis of the Assembly of the Peoples of Kyrgyzstan, supported Uzbek culture and traditions.

15. There were currently over 4,000 persons of Lyuli ethnicity living in Kyrgyzstan. Local governing bodies set aside plots of land on which members of the Lyuli community could build houses. Four individuals of Lyuli ethnicity held positions in the country's internal affairs agencies. The Government conducted ongoing outreach activities to address issues such as early marriage and polygamy in the Lyuli community.

16. More than 20 ethnic minorities were represented among the country's civil servants at the State and municipal levels and they made up 12 per cent of the workforce. The internal affairs agencies counted staff representing 26 ethnic minorities, with Russians, Uzbeks and Kazakhs being the most strongly represented. The presence of ethnic minorities was weakest among administrative civil servants. Kyrgyzstan was the only country in the

region to have passed legislation establishing a quota for the representation of ethnic groups in the parliament and local councils; that quota currently stood at 15 per cent. Of the 120 deputies at the 2018 session of the parliament, 103 were of Kyrgyz ethnicity, 4 Russian, 4 Uzbek, 3 Kazakh, 2 Dungan, 2 Uighur, 1 Tajik and 1 Tatar. Ethnic minorities were slightly less well represented in local councils.

17. Efforts were being made to promote bilingualism and linguistic diversity. In 2016, a multilingual education programme for 2017–2030 had been launched in line with the Government's objective of ensuring that the new generation of Kyrgyz citizens was trilingual. For the 2016/17 academic year, 52 schools had Uzbek as their language of instruction, 52 Uzbek and Russian, 54 Uzbek and Kyrgyz and 1 Uzbek and Tajik. As some Uzbek-language schools had recently become bilingual, adding either Kyrgyz or Russian as languages of instruction, that could explain why it might appear that Uzbek-language schools were closing. In 2014, over 34,500 school-leavers seeking entry to higher education institutions in Kyrgyzstan had sat the national examination in Kyrgyz, over 18,500 in Russian and 49 in Uzbek. The low number of candidates sitting the examination in Uzbek was attributable in part to the fact that Uzbek was not a language of instruction in any of the country's higher education institutions. Uzbek had since been dropped as one of the languages of the national examination on grounds of economic unviability.

18. The Media Act in no way restricted media production in the languages of the ethnic minorities of Kyrgyzstan. In 2014, the television station Yntymak, which broadcast in Uzbek and Kyrgyz, had been included among the stations that broadcast free of charge in digital format. The Government also supported newspapers produced in minority languages. The radio station Friendship worked closely with the various ethnic groups represented in the Assembly of the Peoples of Kyrgyzstan. The weekly radio programme *Bridge of Friendship* was produced in eight different languages.

19. Kyrgyzstan had acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in 1996. Refugees in Kyrgyzstan enjoyed the exercise of their inalienable rights and could not be returned against their will to the country from which they had fled. Any decisions by the State authorities that restricted the rights of refugees could be appealed in court. The Government had taken steps to grant Kyrgyz citizenship to refugees and to facilitate the voluntary repatriation of refugees and unsuccessful asylum seekers.

20. The large flows of asylum seekers from neighbouring States was a matter of public concern, and training was organized regularly on assisting refugees in emergency situations. A national action plan had been launched to prevent refugees from becoming stateless. National legislation permitted refugees to move freely throughout the country, with the exception of a few regions that were closed off to foreign nationals. They also had the right to live in temporary residences, purchase property and receive medical assistance, education and legal protection. Migrant children were entitled to receive free secondary education.

21. The Ministry of Internal Affairs was intensifying its efforts to provide training in human rights, international law, conflictology and inter-ethnic relations to all its employees.

22. **Ms. McDougall** (Country Rapporteur), noting that the Committee had recommended, in its concluding observations on the State party's previous periodic report (CERD/C/KGZ/CO/5-7), that certain steps should be taken to address the root causes of the ethnic conflicts that had been occurring in the State party since 2007, said that the measures adopted by the State party in response to that recommendation appeared to have been mostly ineffective. According to the information available to the Committee, the local government bodies responsible for implementing the measures were overwhelmingly controlled by members of the Kyrgyz ethnic group, had insufficient resources and suffered from a lack of public trust.

23. She wished to know whether the State party had set up a mechanism to review the cases of the persons convicted in connection with the June 2010 ethnic conflict in Osh and Jalal-Abad provinces and what efforts, if any, had been made to investigate the human rights violations committed during that conflict and to prosecute and punish the individuals responsible, regardless of their ethnicity. In 2014, the Human Rights Committee had

expressed concern that the State party had failed to carry out effective investigations into the violations in question and had not addressed the root causes of the conflict. The investigations that had been conducted had reportedly been biased, inconsistent with the principle of due process and inadequate for the purpose of combating impunity. She would appreciate a detailed response from the delegation in that regard.

24. There were credible reports that the State party had not taken any steps to review torture-tainted convictions handed down in the aftermath of the June 2010 conflict. In paragraph 28 of its periodic report, the State party asserted that there had been no claims for compensation for miscarriages of justice that had occurred in relation to the conflict. However, the fact that no one had come forward did not mean that there had not been any miscarriages of justice. Rather, it could point to a fear of the police, particularly among the Uzbek community. Her conclusion, from reading the statistics supplied by the State party and other reliable sources, was that it was the victims of the June 2010 conflict who had been jailed and the perpetrators who had been compensated.

25. In paragraph 34 of its periodic report, the State party noted that 15 complaints of torture had been made against law enforcement officials in connection with the June 2010 conflict and that criminal proceedings had been instituted in five cases. However, no information had been provided on the outcome of those proceedings.

26. The Committee had received reports that forced evictions continued to be a significant issue in Kyrgyzstan, especially in Osh, which had a large Uzbek population; that legislation and procedures concerning the demolition of houses and eviction were not transparent; that ethnic Uzbeks living in Osh had been disproportionately affected by the government expropriation of private property for urban development projects; and that the compensation offered for that property was as little as five times below the market value. The delegation should explain the formula used to determine compensation in such cases.

27. There was evidence to suggest that, years after the events of June 2010, ethnic Uzbeks continued to be dismissed from local and central government posts for being related to persons who had been convicted for their involvement in those events. It would be helpful to know how many ethnic Uzbeks had been removed from such positions since 2010 and on what grounds.

28. It was reported that members of the Lyuli ethnic group were often discriminated against, had an extremely low standard of living and school attendance rate and were unable to avail themselves of social services owing to a lack of documentation. She would be grateful to hear about the steps being taken to provide Lyuli children, in particular, with birth certificates and other identity documents.

29. Ethnic minorities, who accounted for around 30 per cent of the State party's population, continued to be underrepresented in the executive and legislative branches of government. She wished to know why that was the case, what was being done to implement the legal quotas for the representation of minorities in the parliament as mentioned in paragraph 17 of the periodic report and what measures were being adopted generally to boost minority representation in the civil service, the judiciary and the police force.

30. The delegation should describe the results achieved pursuant to the adoption of Decision No. 220 of 30 April 2013, on measures to reform the internal affairs agencies. It should also comment on the fact that, despite the introduction of legislation in 2011 establishing a 15 per cent quota for ethnic minority candidates on political party lists, ethnic minority representation had fallen between 2011 and 2015. According to reports, political parties had altered their lists of candidates after elections, excluding a number of minority representatives. She wished to know whether that was true and, if so, what was being done to prevent the practice. Statistics on the number of ethnic Uzbek judges in Osh would also be welcome.

31. Concerns remained about the State party's failure to bring its national legislation, including the Constitution and the Criminal Code, into line with international standards. Some experts argued that the amendments approved in the constitutional referendum of December 2016 had merely muddled the waters with regard to the status of international law in the domestic legal framework. The lack of legislative harmonization raised concerns

about fundamental principles of law, the separation of powers and, by extension, the independence of the judiciary. She wished to draw particular attention to the State party's failure to enact legislation on hate speech that incorporated the spirit and letter of article 4 of the Convention.

32. She urged the State party to ensure that the Office of the Ombudsman was fully compliant with the Paris Principles and recalled that the Committee had, in the past, requested comprehensive data on cases of racial discrimination handled by State agencies. The relevant information provided in paragraphs 131 to 136 of the periodic report was not sufficiently comprehensive. It should also be noted that an absence of complaints submitted to the Office of the Ombudsman and other State agencies might indicate problems with the accessibility of complaints mechanisms or a lack of public trust in the Government.

33. There had been disturbing reports of harassment and persecution of human rights defenders, especially journalists, individuals who championed the rights of ethnic minorities and anyone who expressed opinions on the events of June 2010 that ran counter to those of the Government. The Special Rapporteur on the situation of human rights defenders had expressed deep concern about the treatment of civil society groups and had called on the Government to provide a safe and enabling environment for them to carry out their work without fear of reprisal. She would be grateful for an update on the case of Mr. Askarov; the delegation should respond to reports that Mr. Askarov's wife had been harassed and his home seized. It should also comment on whether only members of ethnic minorities had their homes seized by the Government and explain whether steps would be taken to ensure the prompt release of Mr. Askarov.

34. The Committee had received multiple reports of racist hate speech that was reminiscent of the discourse prevalent in Rwanda in the 1990s. Specifically, it had been informed of verbal attacks against ethnic minorities during the reporting period and incendiary remarks in the media and by politicians that had not been denounced or effectively tackled by high-level officials. Indeed, the Government's response appeared to have been to harass journalists who reported on hate speech, forcing some of them to flee the country. The delegation's thoughts on the matter would be appreciated.

35. **Mr. Kut** said that the State party was to be commended on having submitted its follow-up report on the Committee's 2013 concluding observations on time.

36. **Mr. Avtonomov**, expressing concern at the many problems reportedly faced by members of the Lyuli ethnic community, said that he would welcome further information on their situation. He would also be grateful for details on other minorities, such as Koreans, Meskhetian Turks, Dungans and Dargins, and whether they had the possibility of studying in their own language. He would be interested to know more about the role of the State in supporting ethnic diversity. He recommended that the State party should update its 2008 common core document to reflect the changes that had occurred in the situation since then and it should ratify the amendments to article 8 of the Convention.

37. **Mr. Murillo Martinez**, referring to the case of Mr. Askarov, said that he would be interested to hear more about the State party's interpretation of the Human Rights Committee decision on the matter as well as any recent developments. He wished to know to what extent the State party's efforts to foster national unity and prevent inter-ethnic conflict following the events of 2010 had addressed the root causes of those events and what was being done to combat them. He would be grateful for further information on the role of the Assembly of the Peoples of Kyrgyzstan as a forum for inter-ethnic dialogue, how it operated in practice and the number of sessions that had been held. Details of the quota policy for the representation of the different ethnic groups in the parliament, and its impact, would be appreciated.

38. The delegation might also provide details on the number and kinds of cases in which civil servants or law enforcement personnel had been held personally liable for acts, omissions or delays in relation to policies on intercultural dialogue and support for different ethnic groups. He would be interested to know whether the 1,921 reports of rape that had been registered by the law enforcement agencies between 2010 and 2015 were linked to the events of 2010. With regard to the State party's efforts to improve human rights training, he would welcome specific data on the number of public servants trained and the impact of the

training. He would also like to know more about the participation of ethnic minorities in the public service, especially in senior posts. The delegation might also indicate the proportion of members of ethnic minorities in the overall prison population and the types of crimes they tended to be charged with. He would also be interested to know about the context leading to the inclusion of new provisions on racial discrimination in the Criminal Code and how the Internet was being used to combat hate speech.

39. **Ms. Shepherd** said that, while it was always a challenge to organize a multi-ethnic society and avoid the charge that integration as a strategy resulted in discrimination against one ethnic group or the other, conflict was not an unavoidable outcome and every effort must be made to ensure a rights-based approach in social organizational strategies. She was particularly concerned about minority language rights in the education system; that issue had been raised in the Committee's previous concluding observations and in the list of themes. The State party's assurances notwithstanding, the Committee continued to hear reports that the road map for strengthening national unity and ethnic relations had led to the suppression of minority languages and cultures and that, although the Constitution guaranteed a right for minorities to receive education in their own languages, there was a growing trend among schools that had traditionally taught in the Uzbek language to increase the proportion of the curriculum taught in Kyrgyz on the grounds of social integration. The Committee encouraged the State party to do all that it could to respect the minority language rights of the diverse ethnic groups in the country.

40. The Committee was also concerned by the increase in the school dropout rate. Although the official explanation given was that adolescents were obliged, for material reasons, to seek gainful employment at an early age, she wondered whether the lack of minority language education might be a contributing factor. Noting that poverty was reportedly increasing among poorly educated minorities and that children who dropped out of school were in fact begging in the streets, she wished to know what evidence there was that education and training translated into equal economic advancement for all ethnic groups and equal opportunities to hold political positions. She would welcome labour force statistics disaggregated by ethnic group. She would like to know how the impact of the human rights training described in the State party report was measured. Lastly, she wished to know how the Government planned to ensure that girls had greater access to secular education.

41. **Mr. Marugán** said that the State party's efforts to reduce the number of stateless persons in the country between 2014 and 2018 and the reduction of the residency requirement for naturalization from five years to three years for recognized refugees were to be commended. He wished to know whether the State party planned to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Noting that the 2016 amendments to the Constitution permitted the deprivation of nationality and that a new law on citizenship was being drafted setting out specific procedures for such deprivation, he wished to know whether there were plans to amend the Constitution to include safeguards against statelessness and ensure that implementing legislation would provide for due process and the right to a fair trial. He would welcome more information on the particularly vulnerable situation of lesbian, gay, bisexual and transgender persons who were members of ethnic minorities, as they were reportedly the victims of multiple discrimination and hate crimes, in some cases committed by police officers.

42. The State party's assertion that it had received no reports from victims concerning rape or the use of violence or torture against ethnic minorities contradicted other information received by the Committee. He asked whether victims were aware of their rights, whether they feared reprisals and whether the Government had conducted any investigations such as to encourage victims to report such violations.

43. The quotas and measures in place to ensure the representation of different ethnic groups in the parliament were welcome developments, but no statistics had been provided with regard to the police and other security forces. He wished to know whether such information would be made available and what steps the State party would take to improve the representation of ethnic groups.

44. He would be grateful for additional information on the specific measures taken under the national action plan against human trafficking launched by the Ministry of Foreign Affairs for the period 2012–2015.

45. **Mr. Yeung Sik Yuen** said that he would welcome an explanation of the procedure for surrendering arms referred to in the State party's report (para. 24). Noting that gunshot wounds had accounted for more than half of the deaths during the events of June 2010, he wondered whether those surrendering firearms would be subject to investigation or whether an amnesty was in place. It would be interesting to hear how successful the measures had been. He also wished to know whether the persons who had fled abroad following the events of 2010 and the 47 accused individuals who had not been located belonged to a specific ethnic group. He was concerned that so few of the perpetrators had been identified.

46. It would be useful to hear about the difficulties encountered in the efforts to reform the judicial system and law enforcement agencies. He wondered whether the body established for that purpose had finalized its work and what recommendations it had made. It would also be interesting to know who now appointed and dismissed judges.

47. The case against Mr. Askarov had allegedly been based on evidence obtained from torture, statements from Kyrgyz officers whom he had investigated and witness testimony obtained under duress. Nevertheless, three regional courts had dismissed all the appeals. He asked whether any further appeal procedures were available in view of calls from the International Commission of Jurists.

48. **Mr. Cali Tzay** said that he found the distinction made between ethnicity and nationality in the core document (HRI/CORE/KGZ/2008) confusing; a clear definition of nationality in that context would be helpful.

49. It would be useful to have figures on the composition of the prison population, especially since prisoners were often disregarded and justice could be administered in a discriminatory manner. With regard to health care, he would appreciate information on the access of ethnic minorities to health-care services and medicine, including the type of services available. Were they entitled to public or private health care?

50. He wished to know the reasons behind the high homicide and suicide rates, which the core document (para. 31) cited as a major cause of death. It would be interesting to know what segments of the population were involved, including a breakdown by sex.

51. **Mr. Bossuyt** said that he would appreciate an explanation of the distinction that the State party made between the State language, which was Kyrgyz, and the official language, which was Russian, and the implications of that distinction. He wished to know as well what status had been given to seven other languages spoken in the country. He invited the delegation to elaborate on the use of both Kyrgyz and Russian as a means of inter-ethnic communication. What was their status in public administration, education and the legal system?

52. Additional information would be welcome concerning the human rights violations that had occurred in conjunction with the ethnic conflicts of 2010, including torture, rape and expulsions. He wished to know how history modules presented events in Kyrgyzstan from ancient times to the present day.

53. It was understandable that the State party should withdraw citizenship from persons having more than one nationality where their behaviour so warranted; however, problems arose in the case of persons who became stateless when citizenship was withdrawn. Extremism and separatism, which had been among the reasons given, did not constitute sufficient grounds for depriving individuals of citizenship. Fair procedures should be in place to ensure that such decisions were not arbitrary.

54. **Ms. Li** said that she wished to hear about the Government's efforts to raise public awareness of the Convention and of national laws on the rights of ethnic groups, including access to legal remedies when they encountered discrimination.

The discussion covered in the summary record ended at 5.30 p.m.



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General

3 May 2018

Original: English

Committee on the Elimination of Racial Discrimination

Ninety-fifth session

Summary record of the 2619th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 25 April 2018, at 10 a.m.

Chair: Mr. Amir

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined eighth to tenth periodic reports of Kyrgyzstan (continued)

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Review cycle



The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Combined eighth to tenth periodic reports of Kyrgyzstan (continued)
(CERD/C/KGZ/8-10 and CERD/C/KGZ/Q/8-10)

1. *At the invitation of the Chair, the delegation of Kyrgyzstan took places at the Committee table.*
2. **Mr. Saliev** (Kyrgyzstan), replying to questions raised by Committee members at the previous meeting, said that the low representation of ethnic minorities in national and local government bodies was frequently attributable to economic factors such as low salaries. However, there had been a rise in their representation at various levels of government, in the State and municipal civil service and among the law enforcement authorities. Members of the Uzbek community, for instance, had displayed a growing interest in attending military academies. The authorities were prepared to engage in a dialogue on increasing the representation of ethnic minorities and were already taking steps to that end. Government websites clearly indicated the skills required of prospective civil servants, and testing and promotion procedures were subject to government approval; candidates who scored a sufficient number of points were recruited, regardless of their ethnicity or gender.
3. The sources of inter-ethnic conflict were of a systemic nature. Destructive forces among the population had exploited the frustration of people living in poverty to fan ethnic and nationalistic fervour. In the absence of an effective State policy on inter-ethnic relations, Kyrgyz society was unable to combat the rise in xenophobia. The situation in Osh and Jalal-Abad had been particularly tense due to rivalry between criminal groups and drug cartels. As the problems escalated, ethnic divisions were further exploited and political demands were made, for instance, to separate the area where Uzbeks lived from the territory of Kyrgyzstan. The complex nature of the conflict, which was a reflection of cultural differences, tense economic relations and issues relating to property and resource ownership, had seriously hindered post-conflict reconstruction.
4. Uzbeks had suffered the most from the lack of transparent housing legislation. The compensation paid in the wake of the events of June 2010 had been five times less than the amount required to repair the damages. International experts acknowledged the inevitable difficulty in post-conflict situations of reconciling the short-term need to act swiftly and decisively in order to assist internally displaced persons in returning to their homes and the long-term need for sustainable reconstruction and reconciliation.
5. According to information from the local authorities, 22 homes in the centre of Osh had been demolished as part of an urban renewal project. Building regulations had been strictly respected and compensation had been paid to the owners based on estimates calculated by an independent auditor. In Jalal-Abad, the authorities had decided to expand two city streets. A protocol providing for financial compensation as calculated by an independent auditor had been concluded in 2016 with 33 residents whose homes would be demolished. Four residents who had not received compensation had filed a lawsuit and their cases were being considered.
6. The events of 2010 were presented in school textbooks as a national tragedy. The positive role played by people on both sides of the conflict to prevent chaos and looting was fully recognized. The conflict had been resolved in four days without any outside assistance.
7. The Lyuli community had lived in the region for half a century and spoke Tajik and Uzbek. Many of the village dwellers worked as farmers, while others were employed in adjacent towns. Classes at the local secondary school were taught in Kyrgyz, Russian and English. Lyuli representatives had begun to work with the local authorities in recent years. Four members of the community had been recruited by the Ministry of Internal Affairs after completing their military service and three other members were secondary school teachers. The community was allocated land on which to build houses and was provided with social and medical services. Education officials conducted outreach work with Lyuli parents on issues related to education, early marriage and polygamy. A social fund for the Lyuli

community had been established in December 2012 to provide social and material support for the community and to encourage the enrolment of their children in schools.

8. In the regions inhabited by ethnic minorities, education was provided in each community's own language. Koreans, Chechens and Dargins, who did not live in defined communities but were spread around the outskirts of Bishkek, received schooling in Russian. Enrolment data were updated each year by the National Statistics Committee.

9. The State provided cultural support for all ethnic groups, including in areas such as traditional nomadic culture. Measures were taken to preserve ethnic groups' traditions, customs and languages. For example, the Uzbek Ethnic Cultural Centre in Osh had received a grant in 2015 to promote schooling in Kyrgyz and Russian.

10. The Assembly of the Peoples of Kyrgyzstan was a State-financed advisory body that had been created in 1994 to promote national unity, foster civic identity and alleviate inter-ethnic tensions. It comprised 35 social associations and 27 ethnic cultural centres.

11. Access to schooling in one's mother tongue had never been restricted in Kyrgyzstan. The number of schools providing instruction in the Uzbek language had increased. At the time of the 2010 conflict, 236 schools in Osh provided instruction in Uzbek and 99 in Kyrgyz and Uzbek. The segregated approach that had existed prior to the conflict had been one of the principal motives for its outbreak. Kyrgyz, for instance, had not been taught in schools where the language of instruction was Russian, Tajik or Uzbek.

12. The Government sought to improve prospects for future generations by encouraging minority ethnic groups to have their children learn both their own language and the official State language. Uzbeks in southern Kyrgyzstan, for example, had previously often studied at higher education institutions in Uzbekistan; however, that pattern had changed since Uzbekistan had begun using the Latin script.

13. The term "nationality" was not used in official documents. It was an obsolete term that had been adopted for use in the former federal structure of the Soviet Union. All official documents and laws used the term "citizenship". The ethnic affiliation of citizens was determined subjectively by each individual, and the term "ethnic community" rather than "ethnic minority" was used for collective references.

14. Under article 10 of the Constitution, members of all ethnic communities had the right to preserve their mother tongue and to create the conditions for its study and development. Citizens could address State authorities in the official language or in any language spoken by the peoples of Kyrgyzstan. Replies to written communications were provided in the language used in the communication; if that was not possible, the State or official language was used.

15. **Mr. Kamchybekov** (Kyrgyzstan) said that there was no specific law that addressed the principle of non-discrimination. However, the relevant norms were enshrined in the Constitution and in diverse codes and laws. International treaties ratified by Kyrgyzstan were automatically incorporated in the legal system and were directly enforceable throughout the territory. A number of individual laws stated that international human rights norms took priority over other norms.

16. The 2010 Constitution had laid the foundation for the development of anti-discriminatory legislation inasmuch as it guaranteed equality in terms of rights and freedoms, regardless of gender, race, language, disability, ethnicity, belief, age, political and other convictions, education, background and other circumstances. Steps were being taken to align national legislation with the Constitution and international human rights obligations. For example, the new Criminal Code, which would enter into force on 1 January 2019, included generally recognized international legal norms and the provisions of ratified international treaties. Article 4 enshrined the principle of equality of citizens before the law regardless of their status or background, as stipulated in the Constitution. The new Criminal Code thus formally prohibited discrimination based on race or ethnicity. The legislature stood ready to enact anti-discriminatory legislation but it currently lacked the necessary expertise. It therefore looked forward to cooperating with international partners.

17. There was no explicit need to include articles on racial discrimination in the new Criminal Code as the phenomenon did not exist in Kyrgyzstan. That notwithstanding, it formed part of the overall concept of discrimination and the idea of protecting the rights of ethnic minorities. Under current legislation, only individuals could be held accountable for racial discrimination; under the new Criminal Code, however, corporate bodies could also be held accountable.

18. The instability that Kyrgyzstan had seen in 2005 and 2010 had been due in part to public dismay at corruption in the judiciary and the slowness of trial proceedings. A council made up of senior government officials and civil society representatives had been established in 2012 to oversee reform of the judiciary. Subsequently, a board comprised of members of the parliamentary minority and the judiciary had been established to organize the selection of judges on a competitive basis; judges would be appointed for an initial period of five years, after which they were eligible for permanent appointment. A disciplinary commission had also been established and had the power to dismiss judges on the strength of its review of any complaints brought against them.

19. Regarding the arrangements for reviewing cases related to the events of 2010, those cases could only be reviewed upon receipt of a complaint from a victim.

20. With respect to the possibility of further reviewing the decision to confiscate Mr. Askarov's property, the case had been reviewed by the Supreme Court and returned to the Chüy provincial court for reconsideration. All witnesses had been heard and the defence had had the opportunity to present evidence in open court proceedings at which Mr. Askarov had been provided with an interpreter so that he could follow the proceedings in his own language. The Chüy provincial court had reached a decision that could be contested by the Supreme Court only if Mr. Askarov lodged an appeal. His counsel had not lodged an appeal and Mr. Askarov had therefore not exhausted all means of legal recourse in Kyrgyzstan. In accordance with the court ruling, Mr. Askarov's assets had been confiscated but his family had kept possession of the house.

21. The delegation did not have information regarding the dismissal of Uzbeks who had been involved in the events of 2010 or of their family members. However, anyone who believed his or her labour rights had been violated could submit a complaint to the courts.

22. **Mr. Ketirenov** (Kyrgyzstan), responding to the question about the voluntary surrender of firearms following the events of 2010, said that the State Committee on National Security was responsible for collecting those firearms and for reviewing the events. A large number of firearms had been handed over to the authorities but many were still unaccounted for. When firearms were turned in to the authorities, an investigation was carried out to ascertain whether they had been used for criminal purposes. As a result of such investigations, over 50 individuals had been prosecuted for the illegal possession of firearms, explosive devices and munitions.

23. A total of 103 persons wanted in connection with the events of 2010 were still at large. Statistical data on their ethnic affiliation were not available. Of the 448 persons convicted, 335 were ethnic Uzbeks and 113 were ethnic Kyrgyz. However, those figures could change as prosecutions were ongoing; the process did not suggest that Uzbeks were being deliberately targeted.

24. As to protecting human rights defenders from intimidation, in particular those representing members of minority communities, the State had measures in place to ensure the safety of all citizens. Human rights defenders could submit complaints to law enforcement agencies if they were being intimidated or harassed, but the Kyrgyz authorities had received no such complaints.

25. The first training programme on the prevention of torture and inhuman treatment of prisoners had been introduced at the Ministry of Internal Affairs Academy in 2016. In addition, human rights issues had been included in refresher courses for law enforcement officers and a special programme had been developed to increase professional discipline. Seminars and round tables on the prevention of torture were scheduled to be held in 2018 with representatives of the Office of the Ombudsman, the parliament, the Ministry of Internal Affairs and international organizations. The staff of the State Committee on

National Security had also received training on the prevention of torture. Following the initial training sessions, there had been a drop in the number of cases of torture reported and an increase in the number of law enforcement officers receiving prison sentences for having committed acts of torture.

26. In response to the question about the percentages of ethnic minorities among the prison population, he said that 61.5 per cent of inmates were Kyrgyz, 17.5 per cent were Russian, 11 per cent were Uzbek and the remaining 10 per cent included members of the Tajik, Kazakh, Uighur and Dungan ethnic communities.

27. Regarding the question of whether lesbian, gay, bisexual or transgender individuals who were members of an ethnic minority were especially vulnerable in Kyrgyzstan, he said that legislation was in place to protect their rights. The Ministry of Health had drafted guidelines for interacting with transgender, transsexual and gender non-conforming individuals which served as a reference document for most countries in the region. The efforts of the Ministry of Health to improve the lives of lesbian, gay, bisexual and transgender individuals had been commended by international experts.

28. **Mr. Abdyrakhmanov** (Kyrgyzstan) said that the parliamentary quota system guaranteed the participation of ethnic minorities in elections and had led to political parties seeking candidates from ethnic minority groups. The Elections Code had been amended to clarify the status of candidates who were standing for election under quotas, in particular women and members of ethnic minorities.

29. When hate rhetoric appeared in the media, the authorities responded immediately by issuing a warning or launching a criminal investigation. Recent investigations had involved a number of high-profile individuals. The Ombudsman had also issued warnings against fomenting ethnic hatred.

30. The fact that the Ombudsman had not received any complaints of discrimination did not reflect a lack of trust in the Office. Community drop-in centres had been opened in areas where ethnic minorities lived and discrimination-related matters were often addressed at those centres without need for involvement by the Ombudsman.

31. The global terrorism threat necessitated steps being taken to mitigate that risk. The Government, in line with a practice which was common around the world, had established guidelines for stripping a Kyrgyz national of his or her citizenship on security grounds. The specific procedures were being discussed in the legislature.

32. The State provided medical services free of charge to all citizens regardless of ethnicity or socioeconomic background. No additional compulsory insurance was required and medicines could be purchased in pharmacies.

33. The reasons for suicide in Kyrgyzstan were much the same as elsewhere in the world. In gender terms, 78 per cent of suicide victims had been men and 22 per cent women.

34. With respect to the dissemination of the Convention, the Government was striving to improve citizens' legal awareness. In that regard, it had launched a plan for the period 2016–2020 that included publishing various handbooks on human rights issues. In addition, documentary films had been produced and a national competition on human rights issues had been organized for secondary school pupils.

35. **Ms. McDougall** (Country Rapporteur), thanking the delegation for the information provided, said that she would like the members of the delegation to provide more complete details on the challenges they had faced in dealing with issues of ethnicity and how they had responded to those challenges. She wondered what the conflictual issues were between the dominant ethnic community and the Uzbek community.

36. She would appreciate greater transparency on the issue of homes being demolished or seized. It would be interesting to know the formula by which compensation was determined when a house was expropriated under an urban renewal project and whether the owner of the property was consulted in advance. People in Osh and Jalal-Abad felt that they were being punished again for the 2010 uprising. She was glad to hear that houses were being returned to some families, as she had heard reports that some people had lost their homes after signing an agreement under police intimidation.

37. If it was to resolve the issues that it faced, the State party needed to acknowledge that there was a sense of intimidation among its people and a lack of confidence in State institutions. Reports suggested that people felt too intimidated to take their complaints to the local offices that had been set up under the new law as a complement to the Office of the Ombudsman; and the absence of formal complaints regarding the events of 2010 may point to a lack of trust in the State. Furthermore, and despite the delegation's earlier statement to the contrary, the periodic report did mention cases of alleged torture filed against the police.

38. She asked what criteria were used to consider that an individual or organization was extremist or in possession of extremist materials. She wondered whether due process was guaranteed in that regard and whether individuals and organizations could appeal against their inclusion on such lists.

39. In addition to information regarding the percentage of parliamentary seats that were held by people from ethnic minority communities, the Committee would like to know how many members of those communities held positions in the civil service, the judiciary and the police. Details would also be welcome on the levels of responsibility held by ethnic minority staff members in those institutions.

40. **Mr. Bakhtiyar** (Kyrgyzstan) said that the Government's goal was to resolve any issues that threatened national unity while strengthening inter-ethnic harmony and representation. As part of the decisive action taken since the events of 2010, the Government had framed a strategy identifying key issues related to inter-ethnic relations. A full range of State actors had come together to implement the strategy and unprecedented levels of funding had been made available. In practice, the strategy involved amending legislation, promoting the State language and the language and culture of each ethnic group, and resolving issues related to citizenship and identity.

41. The number of individuals from ethnic minority communities registering for regular army service had increased since 2013. However, interest in public sector work remained low because salaries were often higher in the private sector. In addition, few schools in the south of the country offered education in Russian; that led to problems as individuals needed to understand both the State language and the official language in order to work in the public sector. The Government was therefore focusing on training people in both languages.

42. In Jalal-Abad, the need for wider roads was often the reason for demolishing houses. People living in dwellings that had been built illegally on land identified for construction works received advance notification of demolitions and were invited to discussions in the mayor's office. The homes affected were purchased by the local authorities. Concerning the doubts raised by human rights defenders as to the impartiality of the persons assessing the value of those properties, that matter could be resolved through the courts.

43. As to the preference of citizens to take their complaints to local offices rather than to the Ombudsman, each office had a consultative council made up of representatives from different ethnic communities, women's organizations, youth organizations and religious organizations. Those councils were knowledgeable about local customs and traditions, and problems could therefore often be resolved promptly. It was a positive sign that no complaints on inter-ethnic conflict had reached the Ombudsman.

44. **Mr. Kamchybekov** (Kyrgyzstan) said that the events of 2010 were already covered in the country's history books so that future generations could learn from that episode and prevent any recurrence of such incidents. In Kyrgyzstan, as in all countries where numerous ethnic groups lived side by side, it was important for public policy to address integration. In that regard, the State party's focus on education and language served as a call for reconciliation and a means to strengthen inter-ethnic relations. Every effort was being made to ensure that people living in Kyrgyzstan felt that they belonged not just to their own ethnic community but to the nation as a whole.

45. **Mr. Yeung Sik Yuen** said that he would like to know whether there was a grace period for the surrender of illegally held arms and, if so, whether it applied to everyone living in Kyrgyzstan. The Committee would also appreciate clarification on why searches

and preventive measures were being carried out to confiscate arms in Osh and Jalal-Abad Provinces, which were home to many ethnic groups, while elsewhere outreach work was being used to encourage the voluntary surrender of arms and ammunition.

46. Regarding Mr. Askarov's case, he wondered whether there was a time limit on the appeals procedure and, if so, whether the defendant was still within the period for appealing. The Committee had received information that the domestic remedies for his case had not yet all been exhausted.

47. **Mr. Avtonomov** said that an ethnic community was not always the same as a nation, just as a civic nation was not always the same as a mono-ethnic or poly-ethnic nation. That was why many indigenous communities around the world wanted to be referred to as nations or peoples. There was no single solution to that issue, but the Committee would welcome further information in the next periodic report on how the State party perceived ethnicity and nationhood.

48. He enquired whether the State party would be participating in the International Decade for People of African Descent. Lastly, the Committee would welcome further information on the State Agency for Local Government Affairs and Inter-Ethnic Relations, which dealt with the main policy areas related to the Convention. In particular, he wondered whether that agency had sufficient human and financial resources.

49. **Mr. Marugán** said that there were some 855 cases of stateless persons still pending in Kyrgyzstan and asked how they would be addressed. Regarding the 2016 constitutional amendment to address national security issues, he enquired whether the delegation had any information on cases of deportation or cases where the amended provisions of the Internal Migration Act had been applied. The Committee would also welcome clarification on whether, under current legislation, a person repeatedly charged with illegal stay could be subject to administrative deportation without a court order.

50. The Committee had learned that lesbian, gay, bisexual and transgender individuals who were members of an ethnic community were often victims of hate crimes and ill-treatment at the hands of both State and non-State actors: did the delegation have any information on such cases?

51. He was also interested to know the extent to which ethnic minorities were represented in the police and other security forces. Given that the report stated that no victims had come forward to report cases in which law enforcement officers had been accused of rape or the use of violence or torture against members of ethnic communities, he wondered whether victims were aware of their rights. In particular, considering that victims were likely to fear reprisals, he asked whether such abuses might in fact have occurred and whether any investigations had been conducted or other measures taken to encourage reporting by victims.

52. He would appreciate information on specific measures taken and progress achieved under the Government's national action plan against trafficking in persons.

53. **Ms. Izsák-Ndiaye** said that she was pleased to learn of the Government's efforts to establish an inclusive national identity, as that was important for any peaceful and stable society. However, she was concerned that the country's institutional framework might not be strong enough to deal with the challenges ahead; additional guarantees needed to be put in place in order to manage diversity appropriately. While it might be true that the Ombudsman had not taken up any cases of racial discrimination because they had been dealt with at the local level, that could not be verified inasmuch as the local centres did not provide statistics or information on the cases that they handled. She asked whether the Government planned to strengthen its institutional framework by establishing a new body specifically to deal with discrimination cases and she wished to know what other challenges the State party faced in combating discrimination and how it planned to address them.

54. **Mr. Murillo Martínez** said that he was curious to know whether the laws of Kyrgyzstan provided for the granting of pardons in cases such as that of Mr. Askarov. He was grateful for the explanation of the root causes of inter-ethnic conflicts and was interested to know more about the role played by the Assembly of the Peoples of Kyrgyzstan. Considering that in his own region, the acknowledgement of differences had

long been regarded as a threat to national unity, he welcomed the State party's efforts to promote diversity. He wondered whether the Government carried out regular surveys or research to learn more about perceptions of racism and racial discrimination in the country, especially as such instruments might capture sentiments that would otherwise go unnoticed.

55. Referring to the delegation's statement that the burden of proof lay with the claimant in civil cases, he recalled the Committee's usual practice of asking States parties to enact legislation providing for the reversal of the burden of proof in civil and labour proceedings as that was considered to be an effective mechanism for combating racism and racial discrimination. Lastly, he invited the State party to provide in its next periodic report information on the representation of minorities in the prison population.

56. **Mr. Ketirenov** (Kyrgyzstan), speaking in relation to Operation Arsenal and other action taken to retrieve firearms that had gone missing during the events of 2010, said that efforts were under way to promote the voluntary return of arms. The Criminal Code provided that persons who voluntarily handed in weapons would be relieved of criminal responsibility for illegally bearing firearms.

57. Regarding the identification of extremist organizations, Kyrgyzstan had a dedicated institution whose function it was to assess whether materials were of an extremist nature. Parties were able to contest the institution's expert assessment and could also appeal against court decisions that identified an organization as extremist.

58. **Mr. Kamchybekov** (Kyrgyzstan) said that the deadline for Mr. Askarov to submit an appeal had not yet lapsed. An appeal for a sentence reduction or for release could be lodged at any time.

59. International human rights standards were accorded priority in criminal proceedings. The deportation of stateless persons or foreign nationals who violated the conditions of their stay could only be ordered by a court; the person's right to a fair trial and to a defence were guaranteed.

60. There were several ways in which a person could be acquitted, including by appealing to the courts for a pardon. The power to grant pardons was vested in the President.

61. **Mr. Abdyrakhmanov** (Kyrgyzstan) said that the Government took a step-by-step approach to combating trafficking in persons and in 2017 had adopted a number of decisions to that end. The Government's anti-trafficking programme for the period 2013–2016 had been extended for a further four years. A standing State body, the State Migration Service, had authority over questions related to trafficking.

62. **Mr. Saliev** (Kyrgyzstan) said that the State Agency for Local Self-Government and Inter-Ethnic Relations operated under the auspices of the President and worked with authorities in 31 cities and 453 rural areas. Its focus was on developing self-government bodies, in keeping with the status of Kyrgyzstan as the first country in the region to have adopted a law on self-government. The Agency also had a mandate to address inter-ethnic questions and maintained special offices in 20 multi-ethnic areas of the country. The information and early warnings received by the Agency's monitoring centre were analysed and fed into recommendations that were sent to the Ministry of Internal Affairs, the State Committee on National Security and other government ministries and representatives.

63. **Mr. Kamchybekov** (Kyrgyzstan) said that the authorities in Osh and Jalal-Abad had allowed people to build houses and other structures on plots of land for which, in many cases, they had no proof of ownership. In the light of the need to expand road infrastructure, the Government had subsequently decided that the buildings should be demolished and the owners compensated. Under the Constitution, property was inviolable and no one could be deprived of it arbitrarily; a procedure existed whereby persons not satisfied with the amount of compensation awarded might apply to the courts for additional compensation or damages. With regard to the make-up of the judiciary, he said that there were 14 judges from ethnic minorities.

64. **Mr. Mukashev** (Kyrgyzstan) said that the Government did not have any information suggesting that lesbian, gay, bisexual and transgender individuals who belonged to an ethnic minority were especially vulnerable to aggression. Kyrgyzstan had

fairly liberal legislation and there was no policy that specifically targeted that part of the population. He cautioned against jumping to the conclusion that ethnicity was a factor in everything that happened in the south of the country, where minorities accounted for a large part of the population.

65. **Ms. McDougall** said that she was pleased that the Government was working with various United Nations bodies and she invited the State party to request the assistance of the Office of the United Nations High Commissioner for Human Rights in drafting an anti-discrimination law that complied with the Convention. In her experience, strong and cohesive societies were those in which all groups were included in the national identity. It was crucial that those groups felt equal to one another and that people from all groups were visibly involved in decision-making at the highest levels of society. While laws and language were important aspects of the struggle against discrimination, people and their trust in one another were what mattered most.

66. By way of conclusion, she reminded the State party of the importance that the Committee attached to input from both international and national non-governmental organizations. The Committee would be extremely displeased to learn that any civil society group involved in the review process had been subjected to harassment or placed on the list of extremist organizations.

67. **The Chair** said that the dialogue had enhanced the Committee's understanding of the situation in Kyrgyzstan. He congratulated the State party on its efforts and encouraged it to take all necessary measures to fully implement the Committee's concluding observations.

The meeting rose at 1 p.m.



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General

2 May 2018

Original: English

Committee on the Elimination of Racial Discrimination

Ninety-fifth session

Summary record of the 2620th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 25 April 2018, at 3 p.m.

Chair: Mr. Amir

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Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twenty-second and twenty-third periodic reports of Peru

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Combined twenty-second and twenty-third periodic reports of Peru (CERD/C/PER/22-23 and CERD/C/PER/Q/22-23)

1. *At the invitation of the Chair, the delegation of Peru took places at the Committee table.*

2. **Mr. Soria Fuerte** (Peru), introducing his country's combined twenty-second and twenty-third periodic reports (CERD/C/PER/22-23), said that the Government of Peru condemned, in the strongest possible terms, the heinous murders of Shipibo-Conibo leader Olivia Arévalo and Canadian citizen Sebastian Woodroffe, which had shocked the country and had received widespread national and international press coverage. Those despicable crimes were being carefully investigated by the Peruvian National Police and the Public Prosecution Service. The Ministry of Justice and Human Rights and the Ministry of Culture had responded swiftly and were working on the ground to provide support, including legal advice, to the victims' relatives in order to ensure that they had access to justice and that the perpetrators of the crimes were brought to justice.

3. The Government was committed to respecting, protecting and promoting human rights, fundamental freedoms, democracy and the rule of law and to tackling corruption head-on. The Minister of Justice and Human Rights, Salvador Heresi, had repeatedly made clear that Peru would honour its international obligations, including with regard to combating racial discrimination. The Committee's concluding observations on his country's previous periodic report (CERD/C/PER/CO/18-21) had been useful for the formulation and implementation of policies designed to promote multiculturalism, equality and respect for diversity.

4. In 2017, censuses had been taken of population, housing and indigenous communities. Respondents had been asked to specify, inter alia, their mother tongue and the ethnic group with which they identified. The census questionnaires had been distributed throughout the country in Spanish and in a range of indigenous languages. The results would be available in July 2018. Another important tool for determining the ethnic and racial composition of the country's population was the indigenous peoples database established by the Ministry of Culture. The database contained records of 55 peoples and information on more than 8,000 indigenous communities.

5. In 2017, the Government had rolled out a strategy to facilitate the implementation of the National Development Plan for the Afro-Peruvian Population 2016–2020 in priority regions and sectors. The strategy had led to the incorporation of an ethnic identification variable in the 2018 school census and in school enrolment forms for 2019. According to a geo-ethnic map of Afro-Peruvian communities, Afro-Peruvian populations were present in 11 coastal regions, with the highest concentration in the Lima metropolitan area. The Ministry of Culture had reached interinstitutional agreements with the Ministries of Education and Health to include an ethnic self-identification variable in administrative records. To promote positive self-identification, a campaign entitled "Yo me identifico con orgullo" ("I am proud of my identity") had been launched in eight priority regions of the country with significant Afro-Peruvian populations.

6. In January 2018, the Government had adopted the National Human Rights Plan 2018–2021, which set out 15 commitments to combat discrimination, with particular attention to 13 vulnerable groups, including the indigenous and Afrodescendent populations. The Plan would be translated into the main indigenous languages and communicated to indigenous leaders.

7. In 2017, the Government had launched the National Operation to Combat Racism, an initiative designed to raise awareness of racism as a public issue that affected everyone and to strengthen the capacity of public bodies to handle complaints of racial discrimination. A national survey had been conducted in March 2018 to gauge the attitudes and perceptions of more than 4,000 people from diverse backgrounds with regard to cultural diversity and

racial discrimination. Article 323 of the Criminal Code had been amended by Legislative Decree No. 1323 to bring the definition of discrimination contained therein into line with international standards, and dozens of municipal and regional ordinances on discrimination and racism had been issued throughout Peru.

8. The Government had stepped up its implementation of the National Policy for Mainstreaming the Intercultural Approach through a series of sectoral, intersectoral and subnational measures. In 2017–2018, interinstitutional agreements had been concluded, public policy protocols and guidelines with an intercultural focus had been issued and community organizations had implemented multisectoral plans. The Government had also made considerable progress in implementing affirmative measures to benefit indigenous peoples. Through the Ministry of Justice and Human Rights, an intersectoral working group had recently been created to take urgent steps to promote and protect the human rights of the Awajún and Wampis communities. The group had held two meetings in April 2018 with the participation of representatives of various government ministries, the Office of the Ombudsman, the Public Prosecution Service, the judiciary, and several United Nations agencies.

9. As part of efforts to guarantee access to basic public services, the Ministry of Development and Social Inclusion was implementing the Sustainable Social Action Strategy, an initiative aimed at improving the living conditions of indigenous communities and ensuring recognition of their collective rights. In addition, 367 service platforms, known as *tambos*, had been established to facilitate access, free of charge, to social and productive services in rural and remote areas. Itinerant social action platforms, which were navy vessels equipped to provide public services, made health, education, civil registration and other services available to the most isolated communities in Peru. Between 2013 and 2017, services had been provided to around 500,000 people. The goal for 2018 was to serve 350,000. In the Amazonian regions of Madre de Dios and Loreto, the Household Targeting System had been devised to remediate mercury pollution in districts affected by illegal mining activities and provide other forms of assistance to isolated communities.

10. National school feeding and early childhood development programmes provided services for children in Amazonian districts. Pursuant to the Intercultural and Bilingual Intercultural Education Policy, over 11,000 primary schools were running bilingual intercultural education programmes for the benefit of some 600,000 children. As at December 2017, 38 indigenous language alphabets had been standardized, and the Ministry of Culture and the National Institute of Statistics and Informatics had finished drawing up an ethnolinguistic map of the country.

11. Peru was a regional leader with regard to prior consultation processes. As at March 2018, the Ministry of Culture had seen 36 such processes through to a conclusion and was supporting a further 5. Consultation processes had been organized and completed in relation to 11 fossil fuel projects and 11 mining projects, among others. All processes were conducted in line with the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the relevant domestic legislation. A multisectoral standing committee had been established within the Ministry of Culture to follow up on the implementation of agreements reached through prior consultation processes. Under the National Human Rights Plan 2018–2021, the Government had made a commitment to uphold the land ownership rights of indigenous peoples. The Office of the Deputy Minister of Intercultural Affairs provided oversight in the context of environmental emergencies to ensure that all rebuilding and disaster risk reduction measures incorporated an intercultural approach and were respectful of the rights of the communities affected.

12. Indigenous peoples in a situation of voluntary isolation or initial contact were afforded priority attention by the Government, which had strengthened the legal and regulatory framework for safeguarding their rights, in particular the right to self-determination. There were estimated to be 1,500 indigenous individuals in a situation of initial contact. In line with a recommendation made by the Committee, the Criminal Code had been amended to recognize as aggravating circumstances the fact that the victim of a crime belonged to an indigenous group in a situation of voluntary isolation or initial contact or, in the case of offences involving natural resources, that the offence had been committed in territorial reserves set aside for such peoples. The Ministry of Culture had launched a

process to prepare a national policy proposal concerning indigenous peoples in a situation of voluntary isolation or initial contact. The process was participatory and open to indigenous groups. Meetings and workshops were planned to disseminate the proposal. The Ministry was also developing a training and awareness-raising programme for public officials involved in the protection of indigenous peoples in a situation of voluntary isolation or initial contact and health protection measures to prevent the spread of diseases among such peoples.

13. The Comprehensive Reparations Plan provided for a range of reparations programmes for civilians and military and police officials who had been victims of violations during the period of internal violence from 1980 to 2000. To date, 98 per cent of the people on the Central Register of Victims had received financial compensation. Three quarters of those people were Quechua speakers. The Technical Secretariat of the High-Level Multisectoral Commission had drawn up a number of strategies over the previous 12 months to provide victims with linguistic and cultural support, including communications materials and places of remembrance. Collective reparation projects were approved by communal assemblies, in which members of indigenous communities were active participants. The Government had taken steps to identify and provide redress to victims of forced sterilization. A register of victims had been set up, and almost 6,000 victims had been registered to date.

14. Law enforcement officials in Peru adhered to human rights standards on the use of force. In 2015, Legislative Decree No. 1186 had been adopted to regulate the use of force by the Peruvian National Police. Since then, several police manuals had been updated to promote the handling of social conflicts in a manner that respected fundamental rights. In 2017, the Office of the Deputy Minister of Territorial Governance and the Secretariat of Social Management and Dialogue had been set up within the Office of the President of the Council of Ministers to prevent conflict situations, manage social conflicts and promote dialogue, sustainable agreements and the strengthening of local communities.

15. In 2016, the Working Group for the Strengthening of Indigenous Participation had been created to serve as a forum for agreeing on mechanisms to ensure that indigenous peoples were represented in parliament and in other government bodies. To date, the group had held four meetings. The Ministry of Culture had set up a working group on indigenous policies and a working group for the Afro-Peruvian population to propose and monitor compliance with public policies for those two groups. The application of the quota set in 2002 had resulted in an increase in the participation of representatives of indigenous and campesino communities in regional and municipal councils. In the 2018 elections, the quotas had been applied in 20 of the country's 24 departments and 131 of the 196 provinces.

16. Specific action had been taken to enhance access to justice for vulnerable groups, such as indigenous peoples and Afro-Peruvians. In 2015, a committee on indigenous justice had adopted a protocol for an intercultural approach to the provision of support and advice for use by public servants in the justice system. Eight international congresses on intercultural justice had been held in Peru, the most recent in December 2017.

17. Under the 2016–2021 National Plan of Access to Justice for Persons in Vulnerable Situations, a range of training activities were being carried out, including a basic Quechua course for judges and court officials. A web-based service for translators and interpreters of indigenous languages had been set up and currently had 26 registered interpreters working in a dozen languages.

18. Between 2013 and 2017, a total of 407 complaints had been registered through the Racism Alert Platform. A protocol had been developed to optimize and standardize the handling of such complaints. The platform included educational and preventive components to raise awareness of the existence of racist practices in society. Other judicial and administrative mechanisms were in place in the judiciary and establishments such as the National Elections Board and the National Institute for the Defence of Competition and the Protection of Intellectual Property, as well as private entities such as Sociedad Nacional de Radio y Televisión, to penalize discrimination and guarantee the right to equality.

19. The progress that had been made was a clear indicator of the Government's commitment to eradicating racism and racial discrimination. It was conscious of the scale of the challenges that lay ahead and of the outstanding issues that remained to be addressed.

20. **Mr. Murillo Martínez** (Country Rapporteur), welcoming the high-level delegation of Peru, said that it was regrettable that the delegation's composition did not reflect the country's cultural diversity. It was also unfortunate that the Ombudsman's Office had not participated in the dialogue with the Committee, as was standard practice. Peru was a country characterized by great demographic and linguistic diversity. It was also a country that had enjoyed sustained economic growth in recent years, and the impact of that growth on various ethnic groups should be taken into account during the review. It was somewhat paradoxical that Peru had recently hosted the Summit of the Americas on the theme of democratic governance against corruption, given the country's major challenges in dealing with the phenomenon at the highest political level in recent decades. Nonetheless, the reports the Committee received from Peruvian civil society were testament to the stability of its democracy. Despite political challenges, Peru had made significant advances in the past decade in several areas of relevance to the Committee, including the adoption of the National Human Rights Plan and the establishment of the National Commission against Discrimination.

21. In the period under review, the most notable advances had included the addition of "Afrodescendent" as one of the ethnicity variables in the most recent census and a specialized census for indigenous peoples. Progress had also been made in strengthening the use of the languages of various cultures in State policies and actions. However, like other countries in the region, Peru faced major challenges in relation to the inclusion and recognition of indigenous peoples and persons of African descent, who continued to feel the effects of structural racism and racial discrimination. For example, all else being equal, an Afro-Peruvian was much more likely to be living in severe poverty than any other citizen. He wished to know what was being done to combat structural racial discrimination and ensure equal opportunities for indigenous peoples and Afro-Peruvians. He would be interested to hear about any constitutional amendments or other steps being taken to officially recognize the State party's ethnic diversity and provide for specific, differentiated rights of indigenous peoples and Afro-Peruvians. Information on efforts to promote greater diversity in senior Government positions would also be welcome. With regard to the criminalization of racial discrimination, he wished to know whether the State party was considering amending article 323 of the Criminal Code to fully reflect the provisions of the Convention, particularly article 1.

22. Although legislation had been adopted on the prior consultation of indigenous peoples, there continued to be tensions and challenges in relation to the arbitrary use of force and private police services. According to civil society sources, 11 individuals, 10 of whom belonged to indigenous communities, had died since August 2015 as a result of their participation in protests, and 154 civilians, 60 per cent of them from indigenous communities, had died in that context since 2002. The Committee had also been informed that the State party had adopted legal measures that exempted the security forces from responsibility for police operations undertaken in the context of social protests. He would be interested to hear the delegation's views on the matter. It was important for the authorities to act early to identify potential issues and engage in prior consultation and intercultural dialogue with affected communities, for example in relation to oil extraction activities. He wished to know whether it was true that there were agreements in place between the national police and oil and mining companies, for example, such that security in the areas exploited by those companies was privatized and whether the impact of that practice in the affected communities had been evaluated. He would be interested to hear more in general about collective indigenous land rights.

23. The murder of Olivia Arévalo must be seen in the context of systematic violence against women. Indeed, it was a matter of great concern that more than one thousand women had been murdered in Peru between 2009 and December 2016 and that 7 in 10 women had experienced some form of violence; a disproportionate number of the victims of such violence were indigenous and Afro-Peruvian women. While the Committee welcomed the first ever conviction for racial discrimination, it was concerned that the Afro-

Peruvian woman at the centre of the case, Azucena Asunción Algondones, had been revictimized during the three legal proceedings in which she had been involved.

24. He would like to hear more about the impact of the National Development Plan for the Afro-Peruvian Population, the agencies involved in its implementation and what measures were planned to overcome budgetary and other constraints that hampered its success. He would also like to know how effective intercultural dialogue was in practice and what activities the State party planned to undertake as part of the International Decade for People of African Descent to ensure recognition, development and justice for Afro-Peruvians. In addition, he wished to know whether the State party planned to ratify the ILO Domestic Workers Convention, 2011 (No. 189) and the Minamata Convention on Mercury and to study the effects of mercury on indigenous peoples, especially in the Amazon region.

25. **Mr. Kut** said that the State party's follow-up report (CERD/C/PER/CO/18-21/Add.1) had satisfactorily addressed the issues for follow-up identified by the Committee in its concluding observations on the previous periodic report of Peru, namely indigenous peoples' rights with regard to the extractive industries; reparations for victims of rights violations, including forced sterilization; social conflicts concerning natural resources; and measures to combat racial stereotypes. He noted that information on those matters had also been included in the most recent periodic report. Any further information that the delegation might wish to provide would nevertheless be welcome.

26. **Mr. Cali Tzay** said that the training of legal interpreters was a welcome step in improving access to justice. However, according to reports, 75 per cent of persons involved in court cases or in detention only spoke an indigenous language. He was concerned that the persisting lack of provision for those languages in the legal system might hinder indigenous communities' access to justice or violate the rights of detained indigenous persons. Although the State party's efforts to assist 6,000 victims of forced sterilization in bringing legal action were commendable, much work was still to be done, since, according to the Ombudsman's Office, more than 270,000 sterilizations had been carried out. Although those acts had been committed under previous administrations, the current Government bore responsibility for providing reparations to those affected.

27. The lack of a code of ethics for the media was regrettable. Television programmes such as *La Paisana Jacinta* and *El Especial del Humor*, which featured the character "El Negro Mama", continued to propagate negative stereotypes of Afro-Peruvian and indigenous peoples. In 2014, the broadcasting company concerned had been sanctioned by the State and had taken *El Negro Mama* off-air. Nevertheless, two months later, the character had been back on the air, and the programme now had a wider television audience than before. He would appreciate the delegation's comments in that regard.

28. The adoption of municipal ordinances to combat discrimination was commendable; however, he was concerned that such ordinances did not cover racial discrimination specifically, which diminished their effectiveness. Legislation explicitly banning racial discrimination was also lacking at the national level. He wished to know whether the State party intended to implement a national policy to tackle racial discrimination specifically, as called for by the Convention.

29. He would like to know what percentages of mining operations were lawful and unlawful, who was responsible for illegal mining and how much pollution was caused by such operations. While the right to prior consultation for indigenous communities was enshrined in law, the Committee had been informed that such consultation was not required in relation to mining. He would appreciate a comment from the delegation as to the accuracy of that information. It would also be helpful to have additional information on what was meant by "bilingual intercultural education" and who the intended recipients were. He understood in that connection that bilingual intercultural education had not been rolled out in districts of Lima that had large Quechua-speaking populations.

30. He commended the State party on its progress in safeguarding the right to land and self-determination of indigenous peoples. Nevertheless, regional authorities in San Martín had reportedly withheld support under a project financed by the United Nations Development Programme in exchange for recognition of the right to self-determination; he wondered whether that was true. The Committee had been informed that no complaints of

racial discrimination had been filed in Peru because of victims' fears and mistrust of the authorities. He would like to hear the delegation's views in that regard.

The meeting was suspended at 4.20 p.m. and resumed at 5.15 p.m.

31. **Mr. Avtonomov**, noting that the Office of the Deputy Minister of Intercultural Affairs had gathered a great deal of information on indigenous and Afro-Peruvian communities by conducting three censuses and compiling databases, said that he wished to know how the methodology for gathering data from various sources had been coordinated so as to provide clear and coherent data. It would also be helpful to have information on measures to promote the registration of indigenous land and the granting of land titles. He would appreciate information on any challenges encountered by the authorities in protecting and ensuring the integrity of the populations in a situation of voluntary isolation or initial contact and the measures taken to overcome them. In June 2016, the first three indigenous reserves had been established for such populations; he wondered whether steps were being taken to classify additional reserves and territories.

32. The Sectoral Plan on Intercultural Health 2016–2021 was a welcome initiative. He would like to hear what steps had been taken to implement it and the difficulties involved. He wondered what measures had been adopted to achieve the four objectives of the National Plan for Bilingual Intercultural Education and whether the impact of those measures had been assessed. In addition, he would be grateful for gender-disaggregated data on the results of steps to combat illiteracy and lower the school dropout rate among children from Afro-Peruvian and indigenous communities. Further details on the scholarships offered to encourage young persons from those communities to attend university would also be welcome. Lastly, he would be interested in hearing what action the State party had taken to ensure that Afro-Peruvian and indigenous women had access to education, the labour market, property and land.

33. **Mr. Marugán** said that it was his understanding that the implementation of the mechanism to protect human rights under the National Human Rights Plan 2018–2021 would be dependent on the availability of budgetary resources. He also understood that the Ministry of Energy and Mines would be responsible for the mechanism, which could undermine its impartiality and independence, since the Ministry promoted mining operations that were often associated with human rights violations. He would like to know whether the Government planned to set a specific budget for the mechanism and what steps it would take to ensure its independence.

34. According to reports, during a hearing before the Inter-American Court of Human Rights in 2016, the Government had made a commitment, to introduce, within 90 days, a protocol to protect human rights defenders, but it had not yet done so. He wished to know how the State party intended to fulfil its commitment to protect human rights defenders and safeguard their rights, particularly in the light of reports of continued threats against them and harassment and mistreatment by both State and non-State actors and the lack of policies to protect them and to publicly recognize their work.

35. An immigration law enacted in 2017 guaranteed foreigners equal access to health care, education and employment; however, it was reportedly difficult for refugees and asylum seekers to access such services because they often lacked the requisite identity documents. Migrants from the Bolivarian Republic of Venezuela were particularly affected. It would be useful to have figures regarding the number of refugees and asylum seekers from that country. During the Intersectoral Round Table for Migration Management in 2018, a representative of the Comprehensive Health Insurance programme had recommended amending the law to make the requirements for accessing health care and education more flexible for foreign nationals. He wished to know what action the State party intended to take in that regard. He would also appreciate data on the number of foreigners currently enrolled in the Peruvian education system, disaggregated by nationality.

36. Many migrants reportedly faced problems in finding employment in both the formal and the informal sectors. Since a bank account was required for formal work, many migrant workers had to arrange for their wages to be paid into the bank account of another person. He wondered what was being done to facilitate migrants' access to employment and

whether the Government had a public awareness-raising programme to combat stereotypes and prejudice against migrants.

37. Despite a general lack of information on the phenomenon of forced labour in Peru, it was clear that it affected certain categories of the population, including persons living in poverty and those with a low level of educational attainment. The Second National Plan to Combat Forced Labour 2013–2017 represented a positive step, but its impact seemed not to have been evaluated in preparation for the adoption of a new plan. In that context, he wished to know what steps could be taken to increase the effectiveness of the work of the National Committee against Forced Labour; how forced labour affected indigenous peoples, the Afro-Peruvian community and other ethnic groups; when comprehensive statistics on the extent of the phenomenon would be available; and how the work of the National Labour Inspection Authority would be strengthened with a view to addressing issues relating to racial discrimination. Information on the enforcement of the recently introduced provisions of the Criminal Code concerning forced labour would also be helpful.

38. **Mr. Albuquerque e Silva** said that the State party was to be commended for the considerable importance that it attached to the elimination of racial discrimination, particularly as many countries in Latin America had historically failed to address the issue with sufficient seriousness. The preparation of reports for submission to the human rights treaty bodies gave States parties an opportunity to scrutinize government policies and engage in constructive dialogue with civil society actors. In that connection, he would be grateful for more information, including specific examples, on the involvement of civil society in the preparation of the report under consideration. He would also be interested in hearing whether the process of drafting the report had given rise to any concrete actions that had had an impact on groups that experienced racial discrimination. He wondered whether the State party had a permanent mechanism or body responsible for preparing reports for submission to international human rights bodies and conducting follow-up on any recommendations received.

39. He would appreciate detailed statistics on the representation of Afro-Peruvian communities and indigenous peoples in public service, for example in the judiciary, the Parliament and the executive branch, including the diplomatic service and the armed forces. It was important to recognize that representatives of Afrodescendent communities and indigenous peoples who held senior positions in a country's public service could act as role models and that affirmative action measures could serve an important function in eliminating discrimination against them. He would appreciate an update on the current status of the national strategy for the eradication of ethnic and racial discrimination for the period 2016–2021 and the budget earmarked for its implementation. Lastly, he wished to know whether the results of the first national survey on perceptions and attitudes about cultural diversity and racial discrimination had given rise to any policy measures aimed at eliminating racial discrimination.

40. **Mr. Diaby** said that he would like to know how many final convictions had been secured in relation to complaints received via the Racism Alert Platform. He would also appreciate information on the average duration of custodial sentences handed down to persons convicted in cases of racial discrimination and on how many investigations had been opened to identify, prosecute and punish police officers who perpetrated acts of violence. In addition, he wished to know whether civil society and the national human rights institution had participated in the preparation of the National Human Rights Plan for the period 2018–2021, whether they would be involved in its implementation and whether an evaluation of the Plan's impact would be conducted.

41. **Mr. Bossuyt** said that equality was not so much an "authentic subjective right", as it had been described in the Constitutional Court judgment quoted in paragraph 11 of the State party report; rather, it was a fundamental principle that applied to all subjective rights. He would appreciate more information on the specific grounds of discrimination identified in the two cases mentioned in paragraphs 14 and 15 of the State party report, both of which had given rise to decisions of the Tribunal for the Defence of Competition and Intellectual Property. He would also welcome clarification regarding the relationship between national legislation prohibiting racial discrimination and the regional and municipal ordinances in which the problem was addressed. Lastly, he would be grateful for an update on the review

of the Criminal Code mentioned in paragraph 35 of the State party report and an indication of the impact that it was expected to have on the definition of the offence of discrimination.

42. **Mr. Yeung Sik Yuen** said that he wished to know the numbers of cases of racial discrimination reported, investigations conducted, prosecutions brought and convictions secured and what sentences had been handed down to convicted perpetrators. It was unclear from the information included in the State party report which specific sectors of the economy were affected by forced labour. Clarification would be appreciated. In addition, he would be grateful for an update on the status of the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization, which the State party had been preparing to ratify.

43. **Mr. Murillo Martínez** asked what measures were planned to ensure access to justice for the Afro-Peruvian community and indigenous peoples, whether consideration had been given to the possibility of establishing a mechanism to facilitate access to justice in cases of racial discrimination and whether the State party planned to introduce training courses aimed at raising awareness of racial discrimination among judicial actors and public servants and to develop associated evaluation and follow-up mechanisms. He would also like more information on the National Commission against Discrimination. In particular, it would be useful to know whether, in practice, the National Commission played an intersectoral role and whether the Office of the Ombudsman had a specific function to perform in the Commission's work. He wondered whether the National Commission discussed the Committee's recommendations and, if it did, what plans it had drawn up in response — for example to stop the broadcast of television programmes that denigrated indigenous and Afro-Peruvian persons. Lastly, he would appreciate an update on the situation in the Kugapakori-Nahua-Nanti Reserve and on the policies adopted in that regard.

The meeting rose at 5.55 p.m.



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General

4 May 2018

Original: English

Committee on the Elimination of Racial Discrimination

Ninety-fifth session

Summary record of the 2621st meeting

Held at the Palais Wilson, Geneva, on Thursday, 26 April 2018, at 10 a.m.

Chair: Mr. Amir

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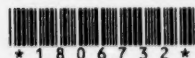
Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Twenty-second and twenty-third periodic reports of Peru (continued)

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Twenty-second and twenty-third periodic reports of Peru (continued)
(CERD/C/PER/22-23, CERD/C/PER/Q/22-23)

1. **Mr. Soria Fuerte** (Peru), responding to questions asked during the previous meeting, said that the Congressional Committee on Constitutional Matters had approved a bill that recognized Afro-Peruvian, Andean and Amazonian peoples as an integral part of the nation. The inclusion of specific references to those groups in the Constitution had been supported by the Ministry of Culture. It was important to note that the bill had been put forward only recently and had not yet been publicly debated. It would be up to Congress to make a final decision on the inclusion of the new provision in the Constitution.
2. Article 323 of the Criminal Code had been amended to include a reference to "any other reason" for discrimination, which meant that it now encompassed all types of discrimination. Article 323 conformed to international standards, including recommendations from the Committee and general comment No. 18 (1989) of the Human Rights Committee. Four further bills proposing amendments to article 323 had been submitted to Congress and were being examined by its Committee on Justice and Human Rights.
3. Under the National Development Plan for the Afro-Peruvian Population, the State used results-based budgeting methodology to identify the resources needed in different sectors. The National Human Rights Plan was the result of a broad consultation process involving government officials and representatives of almost 200 civil society organizations. It included a large number of strategic objectives, strategic actions, indicators and goals, which were all in keeping with international human rights standards. In order to monitor the implementation of the Plan, the Government was increasing its operational capacity by developing a monitoring and follow-up system. However, the implementation of the Plan had begun only recently, and it would take time to see any measurable impact.
4. As part of the National Human Rights Plan, the Government had committed to implementing a mechanism for protecting human rights defenders, which it planned to do during 2018. The mechanism would be implemented in close collaboration with human rights defenders and civil society and would have the necessary human resources and budget. It would come under the supervision of the Ministry of Justice and Human Rights. The delegation would welcome the Committee's recommendations on how to ensure the autonomy and independence of the mechanism. He wished to point out that, in situations of conflict the Government was responsible for protecting the human rights of the police as well as those of the civilian population. In such situations, it was incumbent upon the State to restore order. It was important for the Committee to know that road blocks set up during protests had led to the deaths of children and older persons who had been prevented from accessing health care. He would ask the Committee to take such considerations into account when formulating its concluding observations.
5. With regard to the national strategy for the eradication of ethnic and racial discrimination, in 2017 the Government had launched the National Operation to Combat Racism with the objective of raising awareness of racism and racial discrimination and how they affected all members of society. A budget of more than \$700,000 had been allocated for that purpose. The National Commission against Discrimination was being restructured in order to make it more effective. It had an intersectoral role and comprised officials from several different ministries. The Commission had recently approved a timetable for the implementation of national policies against discrimination. The results of the national survey on perceptions and attitudes regarding racial discrimination would be used as a basis for a national policy against racism and racial discrimination. The policy was currently being formulated through a participatory consultative process.
6. As for follow-up on prior consultation agreements, a multisectoral standing committee had been established under the aegis of the Ministry of Culture. At its most recent meeting, the committee had presented a matrix showing 400 agreements, which

could be used to monitor and verify their fulfilment. Compliance with prior consultation agreements was also monitored by a unit within the Office of the President of the Council of Ministers, which had found a compliance rate of 75 per cent.

7. Regarding the political participation of the Afro-Peruvian and indigenous populations, the National Elections Board had submitted a draft electoral code to Congress that would guarantee the participation and election of an indigenous candidate in the regions where quotas were applied. The quota for persons of indigenous origin had been implemented in 2002 at the regional and provincial levels. Since then, the number of indigenous representatives had increased from 14 in 2010 to 46 in 2014 at the regional level and from 34 to 115 at the provincial level. There was currently no quota system in place for congressional elections. There were indigenous and Afro-Peruvian representatives in Congress, but he was unable to provide exact numbers.

8. Applications for five new indigenous reserves were currently being reviewed. Those new reserves would cover a total of 4 million hectares. A multisectoral committee made up of government agencies, organizations of indigenous populations and representatives of civil society carried out technical studies for such applications. The studies included two phases: identification of indigenous populations in a situation of voluntary isolation or initial contact and delimitation of the territory to be classified as an indigenous reserve. Each phase culminated with the promulgation of a supreme decree of the Ministry of Culture.

9. **Mr. De la Puente Ribeyro** (Peru) said that the concept of interculturality referred to the recognition of cultural differences. It was one of the central pillars of a democratic society based on equal rights and opportunities. Bilingual intercultural education was designed to educate indigenous persons of all ages on how to exercise their citizenship and participate in building a democratic and pluralistic society. Teaching was provided in both Spanish and the language of the indigenous group. The Government had approved a sectoral policy on intercultural education and bilingual intercultural education and such education was available in 18 regions. The National Human Rights Plan provided for interculturality training for teachers. Over 11,000 primary schools had bilingual intercultural education programmes. Educational materials had been produced for 19 indigenous languages, which were included in the national curriculum along with Spanish as a second language. Over 40 higher education institutions offered courses in bilingual intercultural education and a number of scholarships had been awarded to young people from indigenous backgrounds and to teacher trainers specializing in such education.

10. An intercultural health plan was in place for several areas in the Amazon basin, where, in 2017, health care had been provided by travelling teams in almost 250 indigenous communities. A comprehensive health-care model had been approved for the same region with the aim of providing culturally relevant health care. Local facilitators and community health workers had been trained and community health plans had been drawn up with the involvement of community leaders and organizations of indigenous peoples. Further training of health-care workers was planned for 2018. As part of the National Development Plan for the Afro-Peruvian Population, health campaigns had been carried out in several regions. A regional health plan for indigenous peoples was being developed. The Government had also worked to assist indigenous populations affected by oil extraction activities, particularly in the Amazon region. Guidelines for the identification of impacted areas had been drawn up with the participation of representatives of affected indigenous populations and site visits had been conducted in 2017 and 2018. Since 2011, the Government had responded to 148 environmental emergencies caused by oil spills or leaks.

11. **Mr. Soria Fuerte** (Peru), mentioning a number of recent prior consultation processes, said that such consultations were carried out for all proposed investment projects, including mining projects, in line with the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and other international standards. Any Afrodescendent population that was considered an indigenous or tribal group was guaranteed the right to prior consultation, as it was covered by ILO Convention No. 169, the provisions of which had been incorporated into domestic law, as had other provisions of international human rights law, reflecting the State's respect for human rights and its commitment to the fulfilment of its obligations under international law.

12. With respect to the use of force, any official who engaged in the arbitrary use of force could be held criminally responsible. Police officers were only exempt from criminal responsibility in exceptional cases that met the requirements of domestic law and international human rights standards applicable to policing. In order to strengthen national policies on human rights and the use of force, the Government was reviewing directives and protocols on police conduct and the content of police training programmes. A specific training centre focused on the maintenance of public order provided instruction in appropriate use of force and democratic management of social conflicts. The Public Prosecution Service was also developing training for judiciary personnel on the matter.

13. The Peruvian National Police had signed agreements with public and private entities, including 22 mining companies, to provide security services. Such arrangements were permitted only in certain specific situations, including when there was a need to protect strategic assets linked to the exploitation or transport of natural resources or to provide security at large-scale events that might pose a threat to public safety or order. By entering into such agreements, the State sought to protect investments that both contributed to economic stability and generated funds to be used to promote and protect human rights in the country.

14. **Ms. Masana García** (Peru) said that the Ministry for Women and Vulnerable Groups had created two working groups to promote and ensure the fulfilment of the rights of indigenous and Afro-Peruvian women. Those groups, which included representatives of civil society organizations, were both in the process of finalizing their strategic plans for the period 2018–2021. The working group on indigenous women was also promoting the formation of a cross-sector working group for the promotion of the rights of indigenous women. The National Programme to Combat Domestic and Sexual Violence had promoted participatory initiatives to combat violence against women in rural areas.

15. **Mr. De la Puente Ribeyro** (Peru) said that, according to the Database of Indigenous and Aboriginal Peoples, approximately 16 per cent of Peruvian territory was occupied by communities identified as belonging to indigenous peoples. The situation at the Kugapakori-Nahua-Nanti Reserve was illustrative of the action taken by the State party in relation to indigenous peoples living in a situation of voluntary isolation or initial contact. Surveillance posts had been set up to identify threats and illegal activities on and around the reserve, support for health care and education was provided by the Ministry of Culture, and an indigenous specialist carried out continuous monitoring of the health situation of the communities living on the reserve.

16. The use of mercury was a key issue affecting the health and quality of life of indigenous communities in Peru. Studies published by the Ministry of Health showed that 96 per cent of the country's small-scale and artisanal gold production was carried out in regions in the south and east of Peru, which were home to many indigenous communities. Much of that gold was processed using mercury, a metal whose use was damaging to both human health and the environment. The volume of mercury released into the environment depended more on the techniques employed in its use than on the legality or illegality of the mining activities. The Government had taken measures to regulate mining activities in the country and exercise greater control over processing and production methods, including the development of a national action plan on the use of mercury in small-scale and artisanal mining. Peru had ratified the Minamata Convention on Mercury.

17. **Mr. Briceño Salazar** (Peru) said that the number of applications for asylum had risen from 4,366 in 2016 to 34,167 in 2017. The vast majority of those applications had been made by Venezuelan citizens. According to the National Migration Authority, close to 200,000 Venezuelan nationals had entered Peru; about 25 per cent were migrants in transit. Two alternatives were available to Venezuelan nationals arriving in Peru: either they could apply for refugee status, which was available to those who had a well-founded fear of persecution, or they could apply for a temporary residence permit, which was available to those who migrated for other reasons. All applicants for refugee status received a work permit, as did those who were granted temporary residence. Venezuelan citizens could open a bank account with their asylum applicant's identity document or with the permit they received from the National Migration Authority. The Special Commission for Refugees carried out awareness-raising among employers about recruiting asylum applicants.

18. All child refugees and other child migrants had access to compulsory basic education. The Ministry of Education had issued a communiqué to all its departments on the importance of ensuring that the children of refugees had access to education at public schools. Under Peruvian law, migrants present in Peru were guaranteed access to health services, including emergency care. Those with refugee status or an identity card from the National Migration Authority had access to the Comprehensive Health Insurance System.

19. The second National Plan on Forced Labour had been evaluated and an evaluation report was being prepared. The third National Plan had been submitted for approval by a national commission made up of employers, workers and government officials, which was expected to confirm its approval shortly. In order to collect more data on the subject, a survey would be conducted to identify the populations most at risk. The Criminal Code had been amended to bring the definition of the offence of forced labour into line with the ILO Forced Labour Convention, 1930 (No. 29), which Peru had ratified. The Ministry of Labour and Job Creation and the Public Prosecution Service were working together to prevent forced labour and prosecute offenders. The relevant documentation on the ILO Domestic Workers Convention, 2011 (No. 189) had been submitted to the President and Prime Minister for signature on 23 April 2018. It would subsequently be submitted to Congress for ratification of the Convention.

20. **Mr. Arias Lazarte** (Peru) said that a range of measures and initiatives had been carried out to promote access to justice for members of the indigenous and Afro-Peruvian communities, including the establishment of special commissions focused on areas such as indigenous justice and gender justice, the formulation of a national plan on access to justice for persons in situations of vulnerability and the provision of Quechua language training to judges and other judicial personnel. In 2016, 1,166 individuals had received such training. Information had been made available online on integrated justice centres located throughout the country, where individuals could receive legal assistance and access the services of the police and the Public Defence Service. There had been 31 legal proceedings relating to allegations of racial discrimination between 2015 and 2017, 5 of which had resulted in convictions.

21. An online register of interpreters and translators of different indigenous and aboriginal languages was available to the public. There were currently 81 such interpreters and translators. Candidates taking entrance exams for positions in the judiciary received extra points if they spoke an indigenous language. In a few cases, judgments had been issued in Quechua or Aymara.

22. Ms. Azucena Asunción Algendones had been involved in two sets of legal proceedings. In the first case, she had been found guilty of embezzlement, but in application of the *ultima ratio* principle had not been sentenced for a criminal offence; rather, she had been ordered to pay civil damages in the amount of 500 Peruvian soles. The second case related to an offence of discriminatory treatment on the basis of race. The defendants had been found guilty by the court of first instance, but acquitted on appeal; the case had subsequently been referred to the Supreme Court and remained pending.

23. **Mr. Soria Fuerte** (Peru) said that, under the Radio and Television Act (No. 28278), media outlets were obliged to follow a code of ethics. The Sociedad Nacional de Radio y Televisión — an entity consisting of the main television and radio stations — had a mechanism for receiving complaints from the public and a sanctions procedure. The Ministry of Culture, which had published a guide on non-discriminatory communication for media professionals, had publicly voiced its concerns about the television programme *La Paisana Jacinta*. In 2017, the Ministry had conducted education campaigns on racial stereotypes and prejudices and their impact on the fundamental rights of indigenous women. The Government's scope for action was limited, however. While it strove to eliminate stereotypes detrimental to certain population groups, it also had to respect freedom of expression, a right enshrined in treaties such as the American Convention on Human Rights and the International Covenant on Civil and Political Rights.

24. **Mr. Murillo Martínez** (Country Rapporteur) said that the Committee had received detailed information on the distribution of productive land in Peru, 80 per cent of which was owned by 2 per cent of the population. Indigenous peoples enjoyed a harmonious

relationship with nature and were allies in the fight against climate change, and there was ample historical evidence that the ancestral lands of indigenous peoples were better protected when under the control of indigenous communities. He would like to know how the State party intended to guarantee their use and enjoyment of their ancestral lands, particularly those that fell within protected areas.

25. The State party's efforts with regard to prior consultation were commendable. He wished to know, however, what steps would be taken to address complaints that consultations were not held sufficiently in advance. It was particularly important to incentivize women's participation in such consultations and to recognize that they were an opportunity for intercultural dialogue and for maintaining peace and social harmony. In that regard, the State party should keep in mind the tragic events of 2009, in which a confrontation between the State and indigenous peoples — who considered that they had not been adequately consulted about the implementation of a free trade agreement between Peru and the United States — had led to several deaths in Bagua. Given the importance of dialogue for dispelling concerns and preventing the escalation of social conflicts, he would like to know what strategies were being considered to improve dialogue with indigenous peoples.

26. He appreciated the Government's commitment to protecting freedom of expression, but would invite it to carefully consider the Committee's general recommendation No. 35 on combating racist hate speech (CERD/C/GC/35), which shed light on how to address such issues. Programmes such as *La Paisana Jacinta* and the character of El Negro Mama demeaned indigenous peoples and Afro-Peruvians. He urged the State party to find a way of resolving the matter, which was of national concern.

27. **Ms. Shepherd** said that Peru had a number of laws that protected its citizens, and its Constitution — which stipulated that every person had the right to equality before the law and that no person should be discriminated against on any basis — appeared to be aligned with the Convention. Nevertheless, she remained concerned that Afro-Peruvians were not recognized as a distinct group and that they continued to face inequalities and gaps related to structural racism — a legacy of the slave trade. The specialized study on the Afro-Peruvian population had shown that only 3.8 per cent of Afro-Peruvian respondents earned more than 2,500 soles per month and that the majority considered that racial discrimination was a cause of poverty among Afro-Peruvians.

28. She was interested to know what proportion of the national budget was set aside for education and culture. She welcomed the creation of the Afro-Peruvian Working Group to examine and develop proposals regarding the educational situation of people of African descent and would be grateful if the State party would share the results of the baseline survey that had been conducted in relation to the plan for meeting the educational needs of Afro-Peruvian children and adolescents. She would like to hear the delegation's thoughts on how the low rate of tertiary education completion among Afro-Peruvians might be improved.

29. Improvements in the sphere of education should not be measured solely in terms of access to institutions, but should also take into account the content of education. She was curious to know how the State party taught students about the country's history of conquest, colonization, land appropriation and slavery. Were students taught about the contributions of Afro-Peruvians and indigenous peoples to the development of the country?

30. Despite the Government's efforts to combat illiteracy among indigenous peoples, the gains made remained below expectations. A study entitled "Peru: Inequality of Education for Indigenous Groups, the Neglected Class" had found that severe poverty hindered access to education, information and services and that a lack of transport forced rural teachers and children to walk long distances to school. She would like information on the measures adopted to address high dropout rates caused by poverty and lack of transport. She urged the State party to step up its efforts to protect indigenous peoples' right to education, and she wished it success in implementing the National Policy for Mainstreaming the Intercultural Approach. While it was not possible to alter history, she hoped that it would be possible to reverse its negative effects and foster a harmonious democratic society.

31. **Ms. McDougall** said that she would be grateful for clarification of the delegation's comment on persons of African descent being considered a tribal people. She was interested to know more about the ownership of the extractive industries operating in Peru, including foreign mining companies. Recalling that international guidelines on the use of private security contractors existed, she asked whether the State party's policies respected those guidelines and whether private security contractors were subject to the same restrictions on the use of force as the police and the military. She would also like to know what measures were in place to ensure the accountability of such contractors, whether those who transgressed were tried in Peru or in their country of origin and whether they might also incur civil liability. Finally, she would appreciate information on the percentage of productive land that was owned and managed by indigenous communities.

32. **Mr. Cali Tzay** said that he would like to know whether the purpose of recognizing the alphabets of 38 indigenous languages was to strengthen those languages or to Hispanicize them. While he had been interested to learn about the National Policy for Mainstreaming the Intercultural Approach, it had reminded him of the concept of "directed cultural change" advanced by the anthropologist Ulrich Köhler in 1975 to describe indigenous policies of that time; he was concerned that intercultural education might be another way of "civilizing" or homogenizing communities. He would like to hear the delegation's comments on reports that 50 per cent of the Nahua population — an indigenous people in a situation of initial contact — had been exposed to mercury poisoning resulting from informal mining activities financed by mining corporations.

33. **Mr. Marugán** said that he was pleased to learn of the State party's commitment to establish an independent mechanism for the protection of human rights defenders not under the supervision of the Ministry of Energy and Mines. He wondered when that mechanism would be operational. He was also interested to know whether civil society and human rights defenders had been consulted on the plan to establish the mechanism under the Ministry of Justice and Human Rights. Was that institution deemed to be sufficiently independent, and had any other alternatives been proposed to ensure the independence and impartiality of the mechanism?

34. The Committee recognized that Peru had committed to guaranteeing migrants' rights to health and education. However, despite requests by the Intersectoral Round Table for Migration Management to relax access requirements and by the Ombudsman's Office for the Ministry of Health to consider asylum seekers a priority group, to date there had been no changes in the regulations. Had he understood correctly that migrants who did not have refugee status or alien identity cards, including asylum seekers, only had access to emergency services?

35. While the State party's development of consecutive national plans to combat forced labour was positive, he remained concerned about their implementation. He noted that the Government had still not collected statistics on forced labour and its impact on different ethnic groups, despite having set itself that goal in 2014. He wondered what difficulties were hindering the implementation of proposed measures.

36. **Mr. Avtonomov** said that he strongly supported the right to freedom of expression. However, it should not be exercised in an abusive manner that undermined other rights of individuals or peoples, such as the right to human dignity. Drawing attention to the Committee's general recommendation No. 34 on racial discrimination against people of African descent, he asked whether the State party was participating in the International Decade for People of African Descent. If so, what activities were under way? He was curious to know whether there were any Roma communities in Peru. Lastly, he wished to encourage the State party to ratify the amendment to article 8 of the Convention.

37. **Ms. Mohamed** said she had the impression that women were to some extent marginalized in the State party. She would like information about women's representation in the executive and legislative branches and in municipal governments. She also wished to know whether they could exercise the right to freedom of association and whether they had full access to justice.

The meeting was suspended at 12.10 p.m. and resumed at 12.30 p.m.

38. **Mr. Briceño Salazar** (Peru) said that the Peruvian Government guaranteed access to health care for Peruvians and foreigners resident in the country without discrimination. Foreigners with refugee status and permanent resident permits had access to free care under the Comprehensive Health Insurance System, which catered for persons in situations of vulnerability and extreme poverty. Persons with temporary residence permits and employment contracts had access to health-care services through the social health insurance system (ESSALUD).

39. **Ms. Masana García** (Peru) said that gypsies (*gitanos*) had begun to arrive in Peru in the nineteenth century. The community was composed of three groups known as Calé, Rom and Ludar. The Calé group, which was the smallest of the three, had links with the Spanish flamenco tradition. The Rom group was of Eastern European and Turkish origin. The Ludar group was the largest of the three and many of its members worked in circuses. The gypsy communities were not viewed in a negative light by the rest of the Peruvian population.

40. **Mr. Arias Lazarte** (Peru) said that women were not marginalized in Peru. On the contrary, vigorous action had been taken to empower them. In the executive branch, 5 of the 18 ministers were women. In the legislative branch, 36 of the 130 members of Congress were women. In the judiciary, 4 of the 20 Supreme Court judges were women. Women enjoyed freedom of association and were free to establish both for-profit and non-profit organizations.

41. **Mr. De la Puente Ribeyro** (Peru) said that until very recently the country's Prime Minister had been a woman, and women had held the office of Speaker of Congress on more than one occasion. The first Minister of Culture, Susana Baca, had been an Afrodescendent woman and an internationally recognized artist. He rejected the allegation that the State was tacitly promoting the Hispanicization of indigenous peoples. The Ministry of Education and the Ministry of Culture were doing their utmost to recognize and preserve indigenous languages and cultures. Indigenous alphabets were officially recognized and school textbooks were produced in indigenous languages. There was no reliable evidence that mercury contamination was related to illegal mining activities. The matter was currently being investigated. The largest mining companies operated in accordance with internationally recognized standards, and procedures had been established to address any concerns that arose regarding the impact of their activities on living conditions for the country's population.

42. **Mr. Soria Fuerte** (Peru) said that Afrodescendants in Peru enjoyed the right to prior consultation in accordance with article 1 of the ILO Indigenous and Tribal Peoples Convention, which had been in force in Peru since 1994. Self-identification as an indigenous or tribal group was regarded, pursuant to the Convention, as a fundamental criterion for determining the groups to which its provisions, including the right to prior consultation, applied. The Inter-American Court of Human Rights had highlighted, in the case of the *Saramaka People v. Suriname*, certain characteristics that determined which communities met the criteria applicable to a tribal community. According to the Court, the Saramaka people had been forcibly taken to Suriname during the colonization period, where they had subsequently established autonomous communities. They shared social, cultural and economic traditions that were different from those of other groups within the national population. They also maintained a strong spiritual relationship with their ancestral territory. Their economy could be characterized as tribal, and they regulated themselves, at least partially, by their own norms, customs and traditions. Peru respected the binding provisions of international treaties that were applicable to Afrodescendent communities who met the relevant criteria. Two days earlier a bill had been submitted to Congress to amend the Constitution to recognize Afrodescendants and various indigenous peoples. The Afrodescendent population was the focus of a core component of the National Human Rights Plan.

43. With regard to the alleged lack of independence and impartiality of the Ministry of Energy and Mines and the Ministry of Justice and Human Rights in dealing with human rights defenders, he wished to point out that the principles of independence and impartiality applicable to the judiciary did not apply to institutions of the executive branch. Moreover,

such institutions were not directly responsible for protection of human rights defenders, which was a function of the national police force and the Public Prosecution Service.

44. The Government was endeavouring to discourage the public from watching programmes such as *La Paisana Jacinta* and *El Especial del Humor*, which featured the character "El Negro Mama". It was cognizant of the standards laid down in the Committee's general recommendation No. 35 on combating racist hate speech and was committed to applying them.

45. **Mr. Murillo Martínez** said that the legislative initiative aimed at recognizing Afro-Peruvians in the State party's Constitution was welcome. He also welcomed the State party's ratification of the Minamata Convention on Mercury and commended its intercultural education, health and justice policies. He encouraged the State party to strengthen the Racism Alert Platform, to ensure that the ethics guidelines for the media were effectively implemented, to promote the involvement of indigenous peoples in deliberations on climate change, and to ensure that the National Human Rights Plan was effectively implemented, particularly with regard to ensuring the full protection of human rights defenders. He would also encourage the State party to update its common core document (HRI/CORE/1/Add.42).

46. **Mr. Soria Fuerte** (Peru) said that the Peruvian Government would do its utmost to implement the Committee's recommendations. The existing plans, laws and regulations contained important norms aimed at guaranteeing respect for the human rights of all persons subject to the State's jurisdiction, particularly vulnerable groups. He wished to note that the delegation was composed of people of various origins. He himself came from one of the poorest parts of the country and had also lived for many years in a relatively poor district of Lima. His appointment to the office of Deputy Minister for Human Rights and Access to Justice had therefore meant a great deal to his community. He hoped that future delegations would be even more diverse in ethnic and socioeconomic terms.

The meeting rose at 1.05 p.m.



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General

4 May 2018

Original: English

Committee on the Elimination of Racial Discrimination
Ninety-fifth session

Summary record of the 2622nd meeting

Held at the Palais Wilson, Geneva, on Thursday, 26 April 2018, at 3 p.m.

Chair: Mr. Amir

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article 9 of the Convention (*continued*)

Combined fourth to ninth periodic reports of Saudi Arabia

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined fourth to ninth periodic reports of Saudi Arabia (CERD/C/SAU/4-9; CERD/C/SAU/Q/4-9)

1. *At the invitation of the Chair, the delegation of Saudi Arabia took places at the Committee table.*

2. **Mr. Al-Shahrani** (Saudi Arabia), introducing his country's combined fourth to ninth periodic reports (CERD/C/SAU/4-9), said that the report had been prepared by the relevant government authorities in cooperation with civil society organizations. Saudi Arabia was carrying out wide-ranging reforms under its Saudi Vision 2030 plan, which had been launched in April 2016 and included development initiatives in the fields of health, education, employment, protection of the family and the empowerment of women. Various legal and institutional measures had been implemented across the entire human rights spectrum. Work was currently under way to finalize a national human rights strategy and related action plan, which comprised over 100 initiatives in various spheres.

3. During the period covered by the report, the domestic legal framework for the promotion and protection of human rights had been strengthened. Important legislation had been adopted in such areas as preventing human trafficking and the registering of civil society organizations. Legislation had also been enacted to govern the relationship between employers and domestic employees and provide greater legal protection for domestic workers. In addition, efforts were being made to raise awareness of the international instruments to which Saudi Arabia was a party, including the Convention, through media campaigns and at schools. As to the country's institutional framework, the law governing the work of the Human Rights Commission had been amended in March 2016 to better ensure that body's independence. A number of new institutions had also been set up, such as the Saudi Bar Association, the Family Affairs Council and, most recently, an oversight body on care for persons with disabilities.

4. The Government's efforts to promote and protect the enjoyment of human rights without discrimination had yielded many positive results. Participation in public life, for instance, had been improved with the appointment of 30 women to the Consultative (Shura) Council, where women now made up 20 per cent of the total members, and 6 women had also been appointed to the Human Rights Commission, representing approximately 25 per cent of the total membership. Significant progress had been made in the health sector as well, spanning such areas as maternal and infant health, vaccination programmes, care for persons with disabilities and older persons, and mental health.

5. In the education sector, the illiteracy rate had been lowered thanks to the launching of flexible, non-discriminatory programmes. Higher education was free, and financial and other incentives were offered for male and female students alike. The number of female students pursuing scientific specializations was on the rise, and the percentage of female students in higher education overall had reached 52 per cent. The principles of equality and non-discrimination occupied a central place in all curricula, which were revised periodically.

6. In the employment sector, a number of measures had been taken to protect the rights of workers against racial discrimination. For instance, with the adoption of Cabinet Decision No. 166 (9 October 2000) governing the relationship between employers and migrant workers, the term "sponsor" had been replaced with the term "employer"; and an August 2010 decision of the Ministry of Labour and Social Development had prohibited any discrimination in wages between male and female workers for work of equal value. The mechanism for contracting foreign workers had also been modified and the staff of specialized recruitment agencies had received training in recognizing and preventing human trafficking. A hotline operating in eight languages had been set up and brochures had been produced to inform workers of their rights and the legal and translation services available to them. Workshops had also been held to inform domestic workers of their rights.

7. Under the memorandum of understanding signed between the State party and the Office of the United Nations High Commissioner for Human Rights, various training activities had been organized to raise awareness among lawyers, members of the judiciary and health professionals about the human rights treaties to which Saudi Arabia was a party. In parallel, the Ministry of Education and the Human Rights Commission had launched a joint programme to strengthen coordination in the mainstreaming of a culture of human rights in schools.

8. The Government's approach to combating racism and racial discrimination operated at all levels. At the national level, the King Abdulaziz Centre for National Dialogue brought together representatives of all segments of society with a view to strengthening national unity and addressing issues of national importance. The Centre had organized 200 training events in 2017 that had been attended by more than 6,000 men and women, and it had launched a special programme to foster the values of peace and coexistence. Also in 2017, a supreme decree had been adopted on countering fanaticism in sports. In addition, the King Abdullah bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue had been established in Vienna to strengthen peaceful coexistence among nations and combat extremism. As a party to five of the principal human rights treaties, Saudi Arabia had set up in 2015 a standing committee — made up of representatives of the Government and civil society — to prepare reports for the treaty bodies and follow up on their recommendations.

9. **Ms. Dah** (Country Rapporteur) said that the information submitted in lieu of a core document was unfortunately incomplete. It would be useful to have data on the ethnicity of the country's 21 million Saudi Arabian nationals and on the nationalities of the 10 million foreign residents, including the number of refugees and stateless persons. Noting that the State party's report gave the impression of a largely inclusive country, she wondered whether any civil society organizations dealt specifically with racial discrimination.

10. While the progress made over the reporting period was to be commended, she wished to know what institutional, legislative and administrative measures the country had adopted to implement the Convention. She asked whether the Government would consider withdrawing its reservation to the Convention, as requested by the Human Rights Council.

11. Although all international instruments ratified by Saudi Arabia carried the same weight as national laws, the Committee had not received any reports of the Convention having been invoked before the courts. In the absence of a specific law prohibiting racial discrimination, she was concerned that the concept might not be defined in line with article 1 of the Convention; might the State party consider amending the Basic Law of Governance to include an appropriate definition? Similarly, the country's criminal legislation did not treat motivations relating to race, national or ethnic origin or colour as aggravating circumstances, which suggested that the State party had fallen short in meeting its obligations under articles 2 to 4 of the Convention. The general principles of non-discrimination, equality and justice as provided for under sharia law were noble and essential for human rights, but they did not themselves serve to combat or prevent racial discrimination. The new draft law on hate speech should draw on the Committee's general recommendation No. 35 and include provisions on the incitement of racial hatred. It was regrettable that article 39 of the Basic Law of Governance focused on preserving national unity rather than on preventing racial discrimination in the media.

12. She wished to know whether civil society organizations — which were effectively prohibited from engaging in political activity and were only authorized to operate once their charters had been ascertained to be in compliance with article 8 (2) of the Civil Society Organizations and Institutions Act — were subject to subsequent monitoring.

13. In the wake of the judicial system reforms, it would be helpful to have information on the number of complaints filed, judgments issued and convictions handed down in cases involving racial discrimination, which institution had received the complaint and the number of cases handled by the Human Rights Commission. A number of measures were urgently needed to further strengthen the system, such as the adoption of a criminal code, the amendment of the Criminal Procedure Act, the harmonization of case law and the establishment of a legal aid system; those tasks could perhaps be entrusted to the

Commission. Of the various institutions in existence to protect and promote human rights, including the Commission and the National Society for Human Rights, she wished to know which was considered the national human rights institution.

14. The lack of demographic data on ethno-religious minorities and vulnerable groups, many of whom lived in poverty, prevented an accurate assessment of their situation. Aware that members of minority faiths, such as Shia Muslims, were often the target of political, social and economic discrimination, she wished to know what action the State party planned to take to remedy the situation. Groups such as tribal and nomadic peoples, persons of African or Asian descent and people living in remote areas were also subject to varying degrees of marginalization and discrimination. She wondered what steps the State party planned to take to tackle the stereotypes and prejudices that exacerbated that situation, for instance, special measures under the Convention and the Committee's general recommendation No. 32 or campaigns to raise public awareness. In the report on his 2017 mission to Saudi Arabia (A/HRC/35/26/Add.3), the Special Rapporteur on extreme poverty and human rights had found that certain segments of the population, particularly women from minority groups, were denied access to public sector employment and basic services and had high illiteracy and school dropout rates. She would welcome additional efforts by the Government to ensure that women from minority groups had full access to education, health care, employment and justice.

15. She encouraged the State party to act upon the recommendations made by the Committee on the Elimination of Discrimination against Women (CEDAW/C/SAU/CO/3-4) by allowing Saudi women to transmit their nationality to a foreign spouse and to their children on an equal basis with Saudi men and by regularizing the situation of stateless women.

16. She would appreciate up-to-date figures on the number of refugees and asylum seekers in the country. As the State party had not ratified any of the international conventions on refugees, it would be interesting to hear about its procedure for granting refugee status. She would also welcome information regarding the situation of refugee camps, particularly the Rafha camp, in the light of the refugee crisis sweeping the region. Did the State party ensure access to education, employment, water, sanitation and health care? The adoption of a national anti-trafficking action plan for the period 2017–2020 and the establishment of a standing committee to implement the Anti-Trafficking in Persons Act were welcome measures, and it would be useful to have statistics on any related investigations, prosecutions and convictions in order to assess their impact.

17. The State party had introduced a raft of laudable measures to protect migrant workers, including a wage protection programme and a prohibition on confiscating the passports of migrant workers. She wished to hear about the impact of those measures and any penalties imposed. In 2016, incidents involving tens of thousands of Indian, Pakistani and Filipino migrant workers had revealed the existence of structural discrimination and the persistence of elements of the sponsorship (*kafalah*) system even though it had officially been abolished. Furthermore, migrant workers were disproportionately subject to arbitrary detention and capital punishment. She therefore recommended that the State party should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. According to the report of the Special Rapporteur on extreme poverty and human rights, female domestic workers often faced criminal charges, imprisonment and, in some cases, the death penalty. They were also at risk of abuse by their employers, although the latter were rarely prosecuted inasmuch as workers were reluctant to bring criminal proceedings for fear of deportation or rejection by other employers. She wished to know what steps the State party had taken to improve working conditions and how frequently inspections were conducted. She urged the State party to ratify the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

18. **Mr. Kut** said that the State party was to submit, in accordance with article 9 (1) of the Convention and rule 65 of the Committee's rules of procedure, a follow-up report within one year after the publication of the concluding observations.

19. **Mr. Avtonomov**, noting that, in the State party, two thirds of female migrant workers were domestic workers and two thirds of all workers were migrants, said that the State party should consider ratifying the ILO Domestic Workers Convention, 2011 (No. 189), and the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families.

20. Under Ministerial Order No. 1982 of 3 June 2016, a foreign worker's service could be transferred from one employer to another without the current employer's consent in two sets of circumstances, namely, pending a lawsuit before one of the judicial bodies where a delay had been caused by the employer or upon the recommendation of a judicial body during the examination of a lawsuit in order to avoid any possible negative impact on the worker. He wished to know whether there were any other scenarios in which the voluntary transfer of a worker's service was possible. Any examples that the delegation could provide in that regard would be welcome.

21. Between February 2014 and May 2016, 29,917 lawsuits involving domestic workers had been settled by 37 committees specialized in the settlement of labour disputes related to domestic workers. He would be grateful for information on the functioning of the committees in question and on any specific prevention and enforcement activities carried out by labour inspectorates in relation to discrimination as prohibited under the Convention.

22. Lastly, he would appreciate information on cooperation between the State party and the Independent Permanent Human Rights Commission of the Organization of Islamic Cooperation.

23. **Mr. Marugán** said that it would be helpful to receive up-to-date statistics on the number of migrants in the State party. In particular, he was interested to know the number of migrants from Myanmar, what rights those migrants had and what support, including remittances, they sent to their relatives in Myanmar, Bangladesh and other neighbouring countries.

24. Noting that, in June 2017, the State party had been one of several countries to cut off diplomatic relations with Qatar, he asked what impact the decision had had on Qataris living in Saudi Arabia.

25. He wished to know whether migrants in an irregular situation enjoyed full rights, including freedom of movement, and what specific services and facilities were available to them. He invited the delegation to respond to reports that the State party's authorities had detained and expelled thousands of such migrants and that, as part of an anti-crime campaign launched by the Ministry of Interior, such migrants were given 90 days to regularize their status or leave the country.

26. He was concerned at the fact that the Committee had received only one submission from a civil society organization to complement the State party's periodic report. He would welcome an explanation of why civil society participation in the reporting process had been so low and what was being or would be done to rectify the situation. Noting that article 8 of the Civil Society Organizations and Institutions Act stipulated that an application to set up an association had to be submitted by not fewer than 10 Saudi natural or corporate persons, he asked what steps were being taken to ensure that migrants could exercise their right to organize.

27. He requested the delegation to provide figures on the access of migrant children and the children of migrants to primary, secondary and tertiary education, and asked whether those children were entitled to receive the religious education of their choice, including none, if they so wished. The delegation should state whether migrants were free to practise their own religion without interference and whether all content that was derogatory towards religious minorities had been removed from school textbooks, as recommended by the Committee on the Rights of the Child in 2016 (CRC/C/SAU/CO/3-4).

The meeting was suspended at 4.35 p.m. and resumed at 4.55 p.m.

28. **Mr. Murillo Martínez** said that he would be grateful to receive detailed, up-to-date information, including statistics disaggregated by ethnicity, on the prison situation in the State party and on recorded cases of racism and racial discrimination. It would be helpful to

know whether the principle of the reversal of the burden of proof was applicable in such cases.

29. He invited the delegation to elaborate on the State party's efforts to combat human trafficking. Up-to-date statistics on the fines and sentences imposed on persons convicted of that offence and a description of the relationship between human trafficking and prostitution in the State party would be welcome.

30. He wished to know the extent to which migrants, and ethnic minorities in general, were able to benefit from the guarantees provided under the Unemployment Insurance Act and from housing plans.

31. It would be useful to have precise figures on the number of persons of African descent in the State party and an indication of whether the State party intended to contribute financially or otherwise to the International Decade for People of African Descent, such as by participating in the elaboration of the draft declaration on the promotion and full respect of human rights of people of African descent and participating actively in the programme of activities for the implementation of the Decade.

32. **Ms. Mohamed** said that she wished to know whether regular checks were carried out to protect migrant domestic workers from harassment and violence, including sexual violence, at the hands of their employers. In that connection, she wondered whether persons found guilty of harassment or sexual violence were punished according to sharia law.

33. Lastly, she asked whether it was possible for children born to a Saudi mother and a non-Saudi father to obtain Saudi citizenship.

34. **Mr. Diaby** said that he wished to know the extent to which the Saudi Human Rights Commission was independent. He asked whether there had been any reported cases of use of the *kafalah* sponsorship system since the recent legislative changes — and, if so, how many — and what judicial follow-up there had been.

35. He would appreciate statistics on the representation of ethno-religious minorities in the police force, the judiciary and among high-level officials in general. He would also welcome information on the level of State control over influxes of seasonal workers, the status of such workers and the rights that they were granted.

36. He would be interested to hear from the delegation a description of the degree of civil society participation in the process of preparing the State party's periodic report. Had there been national consultations on the matter?

37. **Mr. Albuquerque e Silva** said that general reservations to international treaties undermined the effectiveness of the rights enshrined therein and the latitude of action of treaty bodies. With that in mind, he asked whether the State party would consider withdrawing its reservation to the Convention or specifying which provisions of the Convention it considered to be in conflict with sharia law.

38. **Mr. Bossuyt** said that he would advise the State party to introduce a labour law to regulate the relationship between migrant workers and their employers as the use of employment contracts for that purpose seemed inappropriate in view of the inherent imbalance of power between the two parties. It would be helpful if the delegation could provide an update on the status of the comprehensive national strategy to promote and protect human rights mentioned in paragraph 53 of the State party report. On a separate point, he would urge the State party to consider reducing the frequency with which the death penalty was applied and ultimately eliminating its application. Lastly, it was unclear whether a quota had been introduced to increase the representation of women in regional and municipal councils, as had been the case in the Consultative (Shura) Council, and whether the members of that Council and regional and municipal councils were elected.

39. **Ms. Li** asked what legal penalties were applicable to public officials found to have abused their power by committing acts of racial discrimination and whether aggravated penalties were applicable under criminal law to persons who committed crimes motivated by, inter alia, race, colour, descent or nationality.

40. **Mr. Yeung Sik Yuen** said that it would be useful to learn how judges were appointed in Saudi Arabia; whether they enjoyed security of tenure; in what circumstances they could be removed from office; whether proceedings were ever brought against high-ranking public officials; and whether there were any persons in Saudi Arabia who were immune from prosecution. It seemed to him that the many and varied functions of the Bureau of Investigation and Public Prosecution, which included leading prosecutions, appealing verdicts and visiting prisons, risked creating conflicts of interest. In other countries, some of those functions were performed by the judiciary or an ombudsman rather than the public prosecution service.

41. In view of the high number of foreign nationals living in Saudi Arabia, he would be grateful if the delegation could comment on the steps that could be taken to improve the situation of persons who followed religions other than Islam. They were currently forbidden from worshipping in public and reportedly faced harassment even when attempting to worship in private with others.

42. **Mr. Al-Shahrani** (Saudi Arabia) said that his country was keen to ratify additional international instruments that protected and promoted human rights. Indeed, the possibility of doing so was under active consideration, and amendments were being introduced to national legislation in preparation for that process. With regard to the general reservation that Saudi Arabia had entered to the Convention, no specific inconsistencies had yet been identified between the Convention's provisions and Islamic sharia law. In fact, racial discrimination was fundamentally incompatible with the principles of Islamic sharia law.

43. **Mr. Al-Otaibi** (Saudi Arabia) said that all forms of racial discrimination were prohibited under Islamic sharia law. In accordance with article 8 of the Basic Law of Governance, all national institutions sought to prohibit discrimination against the country's residents on the basis of, inter alia, ethnicity and colour. Existing regulations guaranteed the equality of children's rights and prohibited discrimination in the provision of services for children on the basis of, inter alia, sex, ethnicity and disability.

44. **Mr. Al-Shahrani** (Saudi Arabia) said that the Rafha refugee camp had been closed for more than 20 years. It had served to accommodate Iraqi refugees during the second Gulf war. The refugees in question had received comprehensive support and assistance. Many of them had since left the country.

45. **Mr. Ashshowwaf** (Saudi Arabia) said that the Human Rights Commission was fully independent. The Commission had once been part of the executive branch, but, in accordance with an amendment introduced to its statutes under Cabinet Decision No. 237 of 14 March 2016, it now reported directly to the King. The members of the Board of the Commission, which oversaw its work, were each appointed for a four-year renewable term of office and were representative of the geographical and ethnic diversity of the country as a whole. The Board was currently in its third term and had six female members.

46. The Human Rights Commission had six standing committees, each of which dealt with a specific aspect or category of human rights. They included a standing committee on civil and political rights and a standing committee on economic, social and cultural rights. The president of the Commission had the rank of minister and was assisted by a vice-president. The Commission had an independent budget funded from, inter alia, allocations from the State budget.

47. The Human Rights Commission was a governmental body that represented Saudi Arabia at the international level, whereas the National Society for Human Rights was a civil society organization.

48. **Mr. Al-Shahrani** (Saudi Arabia) said that there were no marginalized groups in Saudi Arabia. Throughout its history, Saudi Arabia had sought to uphold the principle that all persons were equal in rights and responsibilities.

49. The millions of migrant workers in Saudi Arabia were considered partners in the country's development. The total value of the remittances that they sent back to their respective countries of origin, which was higher than that of the remittances sent home by migrant workers living in any other country, gave some indication of the importance of their contribution. Each year, the rights of a small number of migrant workers were violated;

such incidents were isolated and were dealt with in accordance with the law. Overall, however, there was a clear trend in favour of the protection of the rights of migrant workers. Indeed, they would not continue to arrive in the country in such large numbers if they feared that their rights would not be protected. Saudi Arabia had signed bilateral agreements with a number of the countries of origin of the migrant workers living in its territory with a view to strengthening the protection of their rights.

The meeting rose at 6 p.m.



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General

7 May 2018

Original: English

Committee on the Elimination of Racial Discrimination

Ninety-fifth session

Summary record of the 2623rd meeting

Held at the Palais Wilson, Geneva, on Friday, 27 April 2018, at 10 a.m.

Chair: Mr. Amir

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined fourth to ninth periodic reports of Saudi Arabia (continued)

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Combined fourth to ninth periodic reports of Saudi Arabia (continued)
(CERD/C/SAU/4-9; CERD/C/SAU/Q/4-9)

1. *At the invitation of the Chair, the delegation of Saudi Arabia took places at the Committee table.*
2. **Mr. Al-Zouman** (Saudi Arabia) said that the Saudi Human Rights Commission received human rights complaints of a general nature, including allegations concerning racial discrimination. The Commission investigated all complaints thoroughly and decided on the appropriate measures to be taken. As a government body that reported directly to the King, it differed from the National Society for Human Rights, which was a non-governmental institution that represented civil society and enjoyed complete independence in all its affairs.
3. **Ms. Al-Shangiti** (Saudi Arabia) said that there had been an estimated 12 million non-Saudis living in the country in 2017. Saudi society was founded on shared values and persons who arrived in the State party were required to respect the laws, values, traditions and sensibilities of that society: discrimination on grounds of race, colour or national or ethnic origin was a criminal offence.
4. Concerning population demographics, statistics were available on sex, nationality, age, social status and economic status but ethnicity data were not collected. In that regard, preparations were under way for the 2020 census, which would be conducted using new tablet computer technology for the first time.
5. **Mr. Al-Shahrani** (Saudi Arabia) said that the Saudi Arabia had a long history of welcoming people fleeing from humanitarian crises or other hardship but that it had never labelled those people as refugees. They were instead considered to be guests and enjoyed a legal status that went above and beyond the recommendations of the international human rights community. The State party provided aid and support in cooperation with United Nations agencies to address refugee crises around the world. The Government had also recently announced the contribution of \$160 million in direct aid to the Syrian Arab Republic.
6. **Mr. Khorayef** (Saudi Arabia), recalling that his country had been commended by the Office of the United Nations High Commissioner for Refugees on its treatment of incoming refugees in 2015, said that various measures had been taken to improve the situation of the main groups of refugees currently present in the country. For instance, a royal order had been issued to regularize the situation of the Yemeni nationals who had been living there illegally in order to give their children access to free education; as a result, some 305,000 Yemeni children had been enrolled at public schools for the 2016/17 school year. Yemeni citizens also had the same access to employment as Saudi nationals and were exempt from paying tax on work certificates and authorizations. Syrian refugees, rather than being placed in camps, enjoyed full freedom of movement in the country and were able to obtain residence permits that gave them free access to education and health care. The Ministry of Labour and Social Affairs, for its part, was actively encouraging businesses to provide job opportunities for migrants from Myanmar. Lastly, the Government was cooperating with international organizations and the Governments of neighbouring countries in order to provide financial and other support to the millions of displaced Syrians currently residing in Jordan and Lebanon.
7. **Ms. Al-Moalimi** (Saudi Arabia) said that various pieces of legislation had been promulgated to reinforce the values of tolerance and peaceful coexistence at the national level, while awareness-raising campaigns had been launched to disseminate those values and encourage the rejection of racism and hate. The King Abdulaziz Centre for National Dialogue was firmly engaged in that effort, coordinating training programmes, meetings and dialogues, as well as projects designed specifically for children at public schools. The initiatives supported at the regional and international levels included important

contributions to the establishment of the King Abdullah Bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue in Vienna and the Etidal Global Centre for Combating Extremist Ideology in Riyadh.

8. **Mr. Al-Shehri** (Saudi Arabia) said that the country's employment regulations had been brought into line with the recommendations of the international human rights community concerning the rights of migrant workers. Pursuant to Cabinet Decision No. 166 of 9 October 2000, action had been taken against employers who had withheld the passports of migrant workers. As part of more general efforts to improve the rights of workers, the Human Rights Commission and the National Society for Human Rights were working together in coordinating awareness-raising campaigns.

9. **Mr. Al-Otaibi** (Saudi Arabia) said that all forms of racial discrimination were prohibited in Saudi Arabia and that various entities were involved in the State party's efforts to eliminate such discrimination from Saudi society. As part of a regular monitoring process, all national legislation related to human rights was subject to review by the Consultative (Shura) Council. Government ministries held responsibility for guaranteeing the enjoyment of human rights in their respective spheres and had measures in place to address discriminatory practices. Lastly, the Human Rights Commission monitored any changes made to human rights legislation as well as the implementation of that legislation in order to ensure that international human rights standards were being adhered to.

10. **Mr. Bin Libdah** (Saudi Arabia) said that the Saudi legal system provided for aggravating circumstances by taking account of the status of the perpetrator or the victim and the motivation for the crime. For instance, aggravating circumstances were considered to exist when the victim was a woman, a child or a person with a disability. The laws of Saudi Arabia were reviewed regularly to ensure that they reflected the country's international obligations, including the Convention.

11. **Ms. Fatani** (Saudi Arabia) said that the Human Rights Commission, in accordance with article 5 of its statutes, actively monitored government agencies' implementation of the international human rights instruments to which Saudi Arabia was a party. For the Convention, the Commission had established a complaints mechanism that offered different channels for violations to be reported. Between 2014 and 2017, the Commission had received 80 complaints of racial discrimination. The Commission assessed the State party's progress in implementing the Convention in its annual report on the human rights situation in the country. It supported and worked with civil society organizations and the judiciary and had developed standards to promote and protect human rights, including the elimination of racial discrimination.

12. **Ms. Al-Osaimi** (Saudi Arabia) said that various laws had been enacted to protect human rights in the country, including the rights to housing, education, health care and work. The Health Act, for instance, stipulated that health care should be provided for the whole population in an equal and accessible manner. Line ministries took action based on those laws and were monitored by the respective authorities, both governmental and non-governmental. The Human Rights Commission and civil society organizations sought to disseminate a culture of human rights and imparted human rights education. Several ministries ran programmes and initiatives in cooperation with the King Abdulaziz Centre for National Dialogue aimed at putting an end to racism, racial discrimination and hate speech, achieving national unity and enhancing tolerance. The term "Afrodescendant" was not used in Saudi Arabia as the country had none of the persons referred to in general recommendation No. 34 on racial discrimination against people of African descent.

13. **Mr. Al-Shahrani** (Saudi Arabia) said that Saudi Arabia, in line with its Islamic tenets and firm belief in international cooperation, would always support any initiative that was in the best interests of human beings and sought to provide guarantees and assistance for the needy. The International Decade on People of African Descent was one such initiative.

14. **Ms. Al-Ghamdi** (Saudi Arabia) said that questions relating to citizenship fell under the scope of the Saudi Arabian Nationality Act. As a rule, the law recognized the acquisition of citizenship through descent, with exceptions made for those who were born in Saudi Arabia or who were born to mothers who held Saudi citizenship at the time of

giving birth. There was no discrimination as to gender in the provisions relating to acquiring Saudi citizenship.

15. **Ms. Al-Bawardi** (Saudi Arabia) said that residents of Saudi Arabia received free health care, education, employment, social security and a number of other services. Charitable organizations provided financial assistance for the needy. Situations in which a person faced becoming stateless were addressed under the Nationality Act and other legislation on citizenship.

16. **Mr. Al-Dakkan** (Saudi Arabia) said that, under Islamic sharia law, all persons had the right to select a spouse and to marry. The consent of both parties was a precondition for marriage. According to article 10 of the Basic Law of Governance, the State endeavoured to strengthen the bonds of the family, maintain its Arab and Islamic values, care for all its members and provide conditions conducive to the development of their talents and abilities. A study on child marriage conducted by the King Abdulaziz Centre for National Dialogue and several civil society organizations had concluded that the phenomenon was becoming less common. The Child Protection Act stipulated that persons under the age of 18 years could not enter into marriage contracts unless it was certain that the marriage would not cause harm and was in the best interests of both the male and female partners.

17. **Mr. Al-Shahrani** (Saudi Arabia) said that trafficking in persons was forbidden under Islamic sharia and was classified as a criminal offence under the Anti-Trafficking in Persons Act, which was aligned with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Government had designed the Anti-Trafficking in Persons Act to include provision for preventive measures and specific penalties for perpetrators, be they natural persons or corporate entities. The Act recognized aggravating circumstances. It also contained measures to protect victims, to provide them with medical or other care and shelter and to allow non-Saudi victims to remain in the country until such time as they wished to return to their country of origin. In addition, the Government was raising awareness among population groups vulnerable to trafficking. All public institutions, including the Ministry of Labour and Social Development, reported any suspected cases to the public prosecution service for investigation.

18. **Mr. Al-Shehri** (Saudi Arabia) said that the number of prosecutions and convictions had increased as a result of counter-trafficking efforts. The Human Rights Commission had reported 22 cases of trafficking in persons in 2015 and 15 cases in 2016, while the Ministry of Labour and Social Development had identified and referred 57 cases to the public prosecution service in 2017.

19. **Mr. Al-Abdullatif** (Saudi Arabia) said that the Ministry of Labour and Social Development ensured that rights of migrant workers were protected through various mechanisms. Its inspectors conducted field visits to verify that businesses complied with the Labour Act and other regulations. The number of cases heard by the commissions for the settlement of labour disputes had risen from 24,000 in 2013 to 94,000 in 2017. The Ministry had taken numerous steps to protect workers in general, and domestic workers in particular, against discrimination or practices that breached the Labour Act. Embassies of countries whose nationals worked in Saudi Arabia had conducted awareness-raising workshops on violations and kinds of conduct that workers might encounter.

20. **Mr. Al-Shahrani** (Saudi Arabia) said that foreign workers usually arrived in Saudi Arabia with a contract to provide a specific service. Parties to employment contracts had recourse to clear remedy mechanisms in the event of a breach of contract. The fact that Saudi Arabia was one of the world's most attractive labour markets attested to the quality of its legislative and legal framework and its capacity to address violations.

21. **Mr. Al-Mdimegh** (Saudi Arabia), speaking in relation to measures to address poverty, said that social solidarity legislation focused on the widows of Saudi nationals and their children and Saudi women who had children with foreign husbands. The Citizen's Account programme had been launched to cushion the impact of economic reforms.

22. **Mr. Al-Rwailly** (Saudi Arabia) said that there were no provisions in Saudi Arabian legislation that could be regarded as constituting racial discrimination as defined under

article 1 of the Convention. Article 74 of the Basic Law of Governance provided for equality for all before the courts and recognized the right to litigation for all residents; any failure to respect that equality would constitute a human rights violation that could be referred to the relevant governmental or non-governmental institutions, including the judiciary, for the purpose of obtaining remedy or reparations.

23. **Mr. Al-Dakkan** (Saudi Arabia) said that the Basic Law of Governance guaranteed the right to freedom of opinion. Non-Muslim residents were entitled to practise their religion in their homes, residential complexes or embassies. Islamic sharia law prohibited blasphemy and all forms of disparagement of religious beliefs. Persons who engaged in such practices were held to account. Freedom of opinion and expression were guaranteed to all persons without discrimination under Islamic sharia law and national legislation.

24. **Mr. Mirza** (Saudi Arabia) said that national legislation guaranteed the right to education for all persons without discrimination. Article 30 of the Basic Law of Governance required the State to provide public education and to combat illiteracy. Cabinet Decision No. 139 of 15 June 2004 rendered public education mandatory for all children in the 6-to-15 age group. The Child Protection Act defined the deprivation of children of education, regardless of their gender or nationality, as a prohibited form of abuse and neglect. Article 233 of the public education policy stipulated that all types of education should be free of charge.

25. Saudi Arabia was a party to the Convention against Discrimination in Education adopted by the United Nations Educational, Cultural and Scientific Organization (UNESCO) on 14 December 1960. The number of stateless students and students from Yemen, the Syrian Arab Republic and Myanmar admitted to public schools in the academic year 2016/17 had totalled more than half a million. They had accounted for more than 47 per cent of the total number of expatriate students from over 150 countries.

26. The Ministry of Education had incorporated human rights in the public education curriculum. Teachers were trained in how to familiarize students with human rights definitions and values, including equality in the exercise of human rights and freedoms, and the need to combat racial discrimination. Teachers' skills were also upgraded through in-service training courses.

27. **Ms. Al-Athel** (Saudi Arabia) said that curricula were designed to instil values of tolerance and coexistence and that students were informed of the country's obligations under the international human rights treaties that it had ratified.

28. There were many private schools for children of foreign residents, where children were educated in accordance with the curricula of their own countries. There were currently 2,212 such schools throughout the country, with over 235,000 students from more than 150 countries.

29. **Mr. Al-Khathlan** (Saudi Arabia) said that the development plans and strategies that had been implemented to combat poverty were based on human rights and sustainable development criteria. Vigorous action was taken to prevent social marginalization. The poorer members of Saudi society were able to avail themselves of social security and health insurance, study grants, coverage of value-added tax and support for families purchasing their first home.

30. **Mr. Shayr** (Saudi Arabia) said that article 47 of the Basic Law of Governance guaranteed the right to initiate legal proceedings for both citizens and residents on an equal basis. All laws, decrees and implementing regulations included provisions aimed at promoting access to justice.

31. Instructions concerning affirmative action permitted women to file complaints pertaining to marriage in their place of residence or a local court. That provision constituted an exception to the religious code, according to which access to courts was restricted to the husband. Proceedings in family courts, such as divorce proceedings, child custody proceedings and other family-related matters, could not continue for more than one week. Separate marriage documents were issued to husbands and wives in order to facilitate the wife's access to justice. An advisory council had been established, with the assistance of

the Ministry of Justice, to provide legal advice free of charge as well as access to lawyers who provided services on a voluntary basis.

32. **Mr. Bin Libdah** (Saudi Arabia) said that the public prosecution service monitored conditions in prisons and detention facilities, in accordance with articles 38 to 40 of the Code of Criminal Procedure. Its staff paid regular visits to such facilities, received complaints from prisoners and detainees and took all necessary remedial action when violations were discovered. The National Society for Human Rights also visited prisons and detention facilities in a number of towns. Permanent offices had been established in prisons for representatives of the public prosecution service, the Human Rights Commission and the National Society for Human Rights for the purpose of receiving complaints from prisoners and addressing them forthwith. Interrogation rooms were outfitted with closed-circuit television cameras. Moreover, article 16 of the Code of Criminal Procedure enshrined the right of victims of violence to lodge complaints.

33. **Mr. Al-Shahrani** (Saudi Arabia) said that the public prosecution service was a key component of the judiciary and its authority and independence had been strengthened by a number of royal decrees. Prisoners were provided with humanitarian services that respected their human dignity and promoted their rehabilitation. Concerted efforts were made to prevent them from committing similar offences following their release. Saudi citizens and foreigners enjoyed the same legal status in the criminal justice system and all forms of discrimination were prohibited. According to studies undertaken by the Human Rights Commission, there were no gaps in the Code of Criminal Procedure that would permit racial discrimination.

34. **Mr. Al-Mutairi** (Saudi Arabia) said that, as Saudi Arabia was not a party to the Convention relating to the Statue of Refugees, the persons concerned were not treated as refugees or placed in refugee camps. Yemeni nationals were treated as visitors and the authorities were required by a royal decree to take steps to regularize their situation. Their children could enrol free of charge in public schools. They could exercise the right to work and enjoyed health-care services and other benefits. Moreover, subsidies were granted to businesses to encourage their recruitment. Saudi Arabia had admitted about 2.5 million Syrian nationals since the outbreak of the crisis. Those who chose to remain in the country could seek employment and benefit from free educational and health-care services. The same applied to citizens of Myanmar. In 2015, the Office of the United Nations High Commissioner for Refugees had commended the country's pioneering role in that regard, describing it as a model for other countries.

35. **Ms. Shepherd** said that she would welcome details on the programme of activities that the State party intended to implement in connection with the International Decade for People of African Descent.

36. Inasmuch as article 41 of the Basic Law of Governance required residents to observe the country's laws and to respect the values, traditions and sensibilities of Saudi society, she asked whether there were procedures for familiarizing visitors and new residents with such laws, particularly Islamic sharia law, and with the country's traditions, values and sensibilities. What happened in the event of contraventions, particularly of an inadvertent nature?

37. She wished to know how the curriculum supported the cultural education of major ethnic groups in the State party and whether there was cross-cultural education in all schools.

38. **Mr. Murillo Martínez** said that he commended the importance attached by the State party to the dignified treatment of refugees from the Syrian Arab Republic and other countries.

39. Noting that the maximum fine for human trafficking offences was \$166, he asked whether the State party had considered the possibility of tackling the phenomenon from a financial perspective. He wished to know whether the increase in the number of cases addressed in 2017 had been due to greater effectiveness of State action or whether an exacerbation of the problem had been recorded.

40. Bearing in mind that domestic workers were required to respect the teachings of Islam, he asked how many complaints had been received regarding conflicts between employers and domestic workers relating to religion.

41. **Ms. Chung** said that she wished to know why the State party had not ratified the Convention relating to the Status of Refugees and whether it planned to do so in the future. She was also surprised to note, given the large number of migrant and domestic workers in the State party, that it had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). Did the State party plan to ratify those Conventions?

42. **Mr. Avtonomov** asked how foreigners who had lived and worked legally in the State party for between 20 and 30 years and, in particular, the children of such residents, could acquire citizenship.

43. **Mr. Diaby** asked whether the Government intended to include questions on statelessness or ethnic affiliation in the 2020 census. He said that he would like to know whether any provisions existed to prevent statelessness due to stripping of nationality. It would also be interesting to know whether the State party had submitted a request for its Human Rights Commission to be accredited by the Global Alliance of National Human Rights Institutions.

44. **Mr. Al-Shahrani**, affirming that his country had always been supportive of international efforts to strengthen common human values, said that Saudi society was open to all cultures and religions and received migrant workers from all religious backgrounds. The Government had diplomatic representations in countries of origin that raised awareness of Islamic and Arab values among migrant workers. Specialized firms that recruited such workers were obliged to provide awareness-raising programmes on Saudi societal values.

45. With respect to the inclusion of the values of tolerance and respect for other cultures in the school curriculum, a plan was in place to educate children on those values and human rights starting in their first year of education. All schools were open to all members of society, without any discrimination.

46. Human trafficking carried a maximum punishment of 15 years' imprisonment and a fine of 1 million riyals. Sentences were handed down on a case-by-case basis. Businesses could be dissolved for being involved in human trafficking. Fifty-seven cases of human trafficking had been recorded as a result of improved supervisory measures. Such cases were referred to the courts.

47. Employers and domestic workers had a mutual obligation to respect each other's cultures. All domestic workers enjoyed the same rights, regardless of whether or not they were Muslim. Nothing would be imposed on domestic workers that ran contrary to their culture or values. Similarly, domestic workers were obliged to respect the culture, principles and values of Saudi society. The contractual nature of the relationship ensured that if rights were violated, they would be restored in accordance with existing laws.

48. In response to the question regarding the International Decade for People of African Descent, the Government supported all international efforts to protect and promote human rights.

49. The Government was in the process of examining various international instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Labour Organization Domestic Workers Convention, 2011 (No. 189). Not being a party to those conventions did not prevent Saudi Arabia from observing their provisions and principles and providing assistance to vulnerable people, including refugees. National legislation would be brought into conformity with the conventions and they would then be ratified.

50. With respect to the Human Rights Commission, the Government had supported the establishment of that independent commission, which was affiliated with the Organization of Islamic Cooperation. The Commission was making efforts to comply with the Paris Principles and had amended its regulations accordingly. The fact that the Commission was

based in Jeddah was a reflection of the Government's belief in the importance of human rights mechanisms for the protection and promotion of those rights.

51. Legislation was in place governing the acquisition of citizenship. Saudi citizenship could be acquired, but the success of an application relied on several different factors, including level of education, police record and length of residency.

52. The technical details of the 2020 census were still being finalized. Care would be taken to ensure that accurate social and demographic data were collected. Those data would be used to identify areas that required further development or improvement.

53. **Ms. Dah**, thanking the delegation for its responses, said that all the questions had been addressed and many issues had been clarified. She was pleased to hear that the Convention did not in any way run counter to sharia law, and she believed that the Committee and the Government could work together to eliminate racial discrimination.

54. **Mr. Al-Shahrani** said that the delegation had not avoided any question because it firmly believed in the importance of the Convention for the protection and promotion of human rights at the international level. The national mechanism for drafting treaty body reports had been restructured and the next periodic report would be submitted in a timely manner.

The meeting rose at 1.05 p.m.